

Box 1056 / 105 111  
Johannesburg, S. Africa  
105 111 / 105 111

105 111 / 105 111

United States District Court  
Western District of CA  
450 Gelder Gate  
Box 1056

San Francisco

STATE PRISON  
GENERAL MAIL



555 NEW  
**FILED**  
 FEB 27 2008  
 RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

## COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. §§ 1983

Name Gilbert John E  
 (Last) (First) (Initial)

Prisoner Number E-50957

Institutional Address P.O. Box 1050 Soledad Calif 93960

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

TEH

John Earnest Gilbert  
 (Enter the full name of plaintiff in this action.)

(Principal actor) - vs. p. Delvillar

Case No. 08-1181  
 (To be provided by the Clerk of Court)

James Tilton, N. Grannis, Michael Evans

G.A. Neotti, K. Jones, R.A. Kessler

G. Lewis, P. Roque, G.R. Salazar, P. Avalos

N. Clark, A. Villalobos, Majica, Hozdan, A. Kuhnert  
 (Enter the full name of the defendant(s) in this action.)

COMPLAINT UNDER THE  
 CIVIL RIGHTS ACT,  
 Title 42 U.S.C. § 1983

[All questions on this complaint form must be answered in order for your action to proceed..]

I. Exhaustion of Administrative Remedies.

[Note: You must exhaust your administrative remedies before your claim can go forward. The court will dismiss any unexhausted claims.]

A. Place of present confinement Salinas Valley State Prison

B. Is there a grievance procedure in this institution?

YES ☒ NO ( )

C. Did you present the facts in your complaint for review through the grievance procedure?

YES ( ) NO ☒

D. If your answer is YES, list the appeal number and the date and result of the appeal at each level of review. If you did not pursue a certain level of appeal, explain why.

Because, my celly filed and put me IN  
 The 602 Appeal as I WAS a part of His and a  
 Victim as well and didn't Think we both had too!

COMPLAINT

008-1181-807



1. Informal appeal By Passed

2. First formal level By Passed

3. Second formal level Denied

4. Third formal level Denied

E. Is the last level to which you appealed the highest level of appeal available to you?

YES ☒ NO ( )

F. If you did not present your claim for review through the grievance procedure, explain why. AS Explained-The Malicious act of the Officer and His supervisors happend to my celly (MARK MILAZO K-13061) and myself - so my celly filed The appeal and Included me.

II. Parties.

A. Write your name and your present address. Do the same for additional plaintiffs, if any.

John E Gilbert E-50957, MARK F Milazo K-13061  
P.O. Box 1050 / A3-111 Soledad Calif 93960  
(The same address for Both)

B. Write the full name of each defendant, his or her official position, and his or her place of employment. (Principle Actor) P. Delvillar - Corrections officer

(James Tilton (Secretary of State) N. Grannis (Chief In-mate Appeals officer)

1 Michael Evans (Warden - S.V.S.P.) G.A. Neotti (Chief Deputy Warden -  
 2 S.V.S.P.) K. Jones (Captain - S.V.S.P.) R.A. Kessler (Lieutenant - S.V.S.P.) G. Lewis  
 3 Chief, Disciplinary Officer (S.V.S.P.) P. Roque (Lieutenant - S.V.S.P.) G.R. Salazar (Captain  
 4 S.V.S.P.) Majica (Lieutenant - S.V.S.P.) Hogan (Sergeant - S.V.S.P.) N. Clark (Sergeant  
 5 S.V.S.P.) D. Avalos (Officer - S.V.S.P.) A. Villalobos (Officer - S.V.S.P.) A. Kuhnert (Nurse - S.V.S.P.)

III. Statement of Claim.

6 State here as briefly as possible the facts of your case. Be sure to describe how each  
 7 defendant is involved and to include dates, when possible. Do not give any legal arguments or  
 8 cite any cases or statutes. If you have more than one claim, each claim should be set forth in a  
 9 separate numbered paragraph.

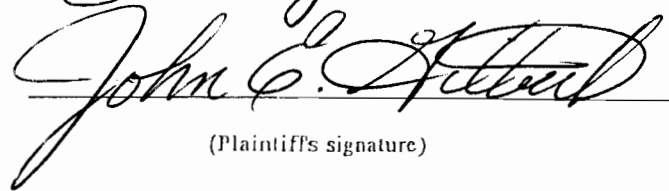
10 3-9-07 my celly (Milazo) and I were in the middle of an argument  
 11 when C/O Delivillar came up to our cell (A1-244) and told my celly to shut  
 12 up and lay down and somebody yelled out "shut-up" my celly then yelled  
 13 back "The same" (we later found out it was the control officer K. Gilmore)  
 14 at this time C/O Delivillar opened the food port and punched my celly  
 15 in the ribs. My celly said "you're going to punch me for telling somebody to  
 16 shut-up back?" C/O Delivillar said "Is that what I did?" he then said "you guys  
 17 aren't going to like it if I come back" (as we woke him up) C/O Delivillar  
 18 came back up the stairs and opened the port and shot a can of pepper  
 19 spray directly in my celly's mouth and after that can ran out he sprayed  
 20 another can and started yelling "stop fighting" then shut the port and said  
 21 "suck it up rats!" they left us in there 8 min (inmate later told us) and  
 22 I told him I had asthma and was put in the shower. They took my celly out  
 23 of the building and I heard C/O state I want Milazo. All the supervisors tried  
 24 to cover up the incident, about 4 hrs before my celly was brought back officer  
 25 IV. Relief D. Avalos said "your lucky you got a shower because Milazo didn't get one."

26 Your complaint cannot go forward unless you request specific relief. State briefly exactly  
 27 what you want the court to do for you. Make no legal arguments; cite no cases or statutes.

28 All defendants be named in their individual and official capacity  
 That the court awards Punitive, Compensatory Damages, That  
 The court declares both Parties rights and liabilities, for the court

1 To order That The Wrongful & Illegally written report be reversed  
2 and custody credits be restored. For the court to order Injunctive  
3 and Declaratory Relief, - As well as Prospective & Retrospective  
4 Relief. For the court to Appoint legal Counsel and Award Reasonable legal Fees  
5 Also For the court to Grant any further Relief it may deem proper,  
I declare under penalty of perjury that the foregoing is true and correct.

6  
7 Signed this 20<sup>TH</sup> day of February, 2008

8  
9   
10 (Plaintiff's signature)

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**DIRECTOR'S LEVEL APPEAL DECISION**

Date: JAN 31 2008

In re: Mark Milazo, K13061  
Salinas Valley State Prison  
P.O. Box 1020  
Soledad, CA 93960-1020

IAB Case No.: 0713434

Local Log No.: SVSP-07-02352

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner R. Floto. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** The appellant is submitting this appeal relative to CDC Form 115, Rules Violation Report (RVR), Log #S07-03-0011, dated March 9, 2007, for Mutual Combat With Use Of O.C. Pepper Spray. The appellant contends that the information relied upon is erroneous. He claims that he was not involved in a mutual combat fight he only had an argument. It is the appellant's position that he is not guilty of the RVR as charged. He requests dismissal of the RVR.

**II SECOND LEVEL'S DECISION:** The reviewer found that the appellant was afforded due process, including a fair and unbiased hearing by an impartial Senior Hearing Officer (SHO). On March 9, 2007, the reporting employee observed the appellant and another inmate involved in a mutual combat fight. They were striking each other in the upper torso and head areas. The reporting employee ordered them to stop, but they refused to comply necessitating the O.C. Pepper Spray be used twice to gain their compliance. Medical examination following the incident reflected that the appellant suffered injuries consistent with being involved in a physical altercation. The appellant was assigned an Investigative Employee (IE) to assist him in the gathering of evidence. The IE performed the duties appropriately as assigned. The SHO utilized the IE report during the hearing to render a decision. The appellant did not meet the criteria for the assignment of a Staff Assistant as there was no need for a confidential relationship; the issues are not complex; and the appellant is not illiterate and understands English. The appellant waived that witnesses be present at the hearing.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** The appellant was afforded all due process rights in the adjudication of the RVR and all procedural guidelines were met. A preponderance of evidence was established by an impartial SHO to sustain the guilty finding. Reports reflect that the appellant has presented no new or compelling evidence in the appeal, which would warrant a modification of the decision reached by the institution.

**B. BASIS FOR THE DECISION:**

California Code of Regulations, Title 15, Section: 3005, 3315, 3318, 3320, 3323

**C. ORDER:** No changes or modifications are required by the Institution.

This decision exhausts the administrative remedy available to the appellant within CDCR.



N. GRANNIS, Chief  
Inmate Appeals Branch

cc: Warden, SVSP  
Appeals Coordinator, SVSP



## INMATE / PAROLEE APPEAL SCREENING FORM

CDCR-695

INMATE: Milano CDC #: K13061 CDC HOUSING: A1-244

**THIS IS NOT AN APPEAL RESPONSE – THIS APPEAL IS EITHER REJECTED FOR REASONS NOTED BELOW OR RETURNED TO MORE INFORMATION OR FOR YOU TO ATTACH SUPPORTING DOCUMENTS.**

**PLEASE FOLLOW INSTRUCTIONS AND RETURN YOUR CDC 602 WITHIN 15 WORKING DAYS**

- |   |   |
|---|---|
| <input type="checkbox"/> Requested Action Already Taken                       | <input type="checkbox"/> Requested Appeal Withdrawn                                     |
| <input type="checkbox"/> Duplicate Appeal; Same Issue                         | <input type="checkbox"/> Appeal Previously Received and Processed                       |
| <input type="checkbox"/> Appealing Action Not Yet Taken                       | <input type="checkbox"/> Incomplete 602 – Complete Next Appropriate Section             |
| <input type="checkbox"/> Incomplete Appeal – Documents Not Attached           | <input type="checkbox"/> Incomplete 602 – Sign and Date Appropriate Section             |
| <input type="checkbox"/> Time Constraints Not Met                             | <input type="checkbox"/> Limit of One Continuation Page May Be Attached                 |
| <input type="checkbox"/> Cannot Submit On Behalf Of another Inmate            | <input checked="" type="checkbox"/> Incomplete Disciplinary Appeal – Missing Documents* |
| <input type="checkbox"/> Appeal Process Abuse – Inappropriate Statements      | <input type="checkbox"/> Incomplete Property Appeal – Missing Documents*                |
| <input type="checkbox"/> No Significant Adverse Effect Demonstrated           | <input type="checkbox"/> Failed to Provide Necessary Copies of Chrono(s)*               |
| <input type="checkbox"/> Action / Decision Not Taken By CDCR                  | <input type="checkbox"/> Appeal Process Abuse – Pointless Verbiage                      |
| <input type="checkbox"/> Action Sought Is Under Sentencing Court Jurisdiction | <input checked="" type="checkbox"/> May Submit One (1) Non-Emergency Appeal Per Week    |
| <input type="checkbox"/> Submit Issue to Assigned Parole Office               | <input type="checkbox"/> Attempting to Change Original Appeal Issue                     |
| <input type="checkbox"/> Appeal Matter to VCGCB                               | <input type="checkbox"/> Not Authorized to Bypass Any Level                             |
| <input type="checkbox"/> DRB Decisions Are Not Appealable                     | <input type="checkbox"/> Appeal Issue & Reasonable Accommodation Not 1824               |
| <input type="checkbox"/> Request for Interview; Not an Appeal                 | <input type="checkbox"/> Do Not Combine Staff Complaints with Other Issues              |
| <input type="checkbox"/> More than one issue –one issue per appeal            | <input type="checkbox"/> Emergency Not Warranted-CCR 3084.7                             |

**[ ] Not a Request Form; Use CDCR-7362 – to access Medical Services, submit your request on a CDCR-Form 7362, Health Care Services Form, and send it to the Medical Department for an appointment. If necessary, sign up for sick call.**

**PLEASE ATTACH AS NOTED BELOW:**

- |   |  |
|---|--|
| <input type="checkbox"/> CDC 115/Hearing Officer's Results          | <input type="checkbox"/> CDC 128C Medical Chrono           |
| <input type="checkbox"/> CDC 115 with IE/DA information             | <input type="checkbox"/> CDC 1819 Denied Publications      |
| <input checked="" type="checkbox"/> Supplemental Reports to CDC 115 | <input type="checkbox"/> CDC 128 A                         |
| <input type="checkbox"/> CDC 1030 Confidential Disclosure           | <input type="checkbox"/> CDC 128 B                         |
| <input type="checkbox"/> CDC 114D Lockup Order                      | <input type="checkbox"/> CDC 143 Property Transfer Receipt |
| <input type="checkbox"/> CDC 128G ICC/UCC                           | <input type="checkbox"/> Cell Search Slip                  |
| <input type="checkbox"/> CDC 128G CSR Endorsement Chrono            | <input type="checkbox"/> Receipts                          |
| <input type="checkbox"/> CDC 839/840 Class/Reclass Score Sheet      | <input type="checkbox"/> Qtr. Pkg. Inventory Slip          |
| <input type="checkbox"/> CDC 7219 Medical Report                    | <input type="checkbox"/> Trust Account Statement           |
| <input type="checkbox"/> Other: <b>SEE COMMENTS BELOW</b>           | <input type="checkbox"/> Property Inventory Receipt        |

**Comments: You may write on back of this form to clarify or respond to the above.**

Attach the Incident Report 5/14/07

T. Variz  
T. Variz, Correctional Counselor-II  
Appeals Coordinator  
Salinas Valley State Prison

4-25-07  
Date:

This screening action may not be appealed. If you allege the above reason is inaccurate, then attach an explanation on a separate piece of paper, or use the back of this screen out – do not write any more on the appeal itself. Please return this form to the Appeals Coordinator with the necessary information attached.

**PERMANENT APPEAL ATTACHMENT - DO NOT REMOVE**

CDU/Medina 2nd  
2nd

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

INMATE/PAROLEE  
APPEAL FORM  
CDC 602 (12/87)

Location: Institution/Parole Region

1. 25P A

Log No.

1. 01-02353

Category

1

2. \_\_\_\_\_

2. \_\_\_\_\_

CDU/TAN

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
<u>MILAZO, M</u>	<u>K-13001</u>	<u>N/A</u>	<u>A1-244</u>

## A. Describe Problem:

On 3-9-07 I/m Gilbert E-50957 and i were  
Arguing At That time C/o Delvillar came to my cell. I  
Told The above C/o we aren't getting along. This C/o  
Told me to go lay-down. Gilbert and I continued  
To Argue and 10 minutes later The above C/o came  
back to our cell and told me I wont like it  
if I wake him up again and he (The C/o) HAS to  
come back up again. AT This time we continued-

If you need more space, attach one additional sheet.

RECEIVED MAY 14 2007

## B. Action Requested:

That i want this write up thrown out!  
I request A time stamp -showing that A-1 Bldge  
personal Alarm was Activated at st said time by  
C/o Delvillar. This C/o cant get his statements Right!

Inmate/Parolee Signature: MilazoDate Submitted: 4-19-07

## C. INFORMAL LEVEL (Date Received:

DELIVERED MAY 03 2007

RECEIVED APR 25 2007

Staff Response: \_\_\_\_\_

BYPASS

DELIVERED AUG 08 2007  
REC'D SEP 18 2007

Staff Signature: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

## D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification Chrono, CDC 126, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

BYPASS

RECEIVED  
NOV-7 2007  
BRANCH

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: \_\_\_\_\_

Copy of Appeal Submitted  
to Hiring Authority for  
Assessment as staff complaint





First Level ☐ Granted ☐ P. Granted ☐ Denied ☐ Other

E. REVIEWER'S ACTION (Complete within 15 working days): Date assigned: \_\_\_\_\_

Due Date: \_\_\_\_\_

Interviewed by: \_\_\_\_\_

**BYPASS**

Staff Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date Completed: \_\_\_\_\_

Division Head Approved: \_\_\_\_\_

Returned \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date to Inmate: \_\_\_\_\_

F. If dissatisfied, explain reasons for requesting a Second-Level Review, and submit to Institution or Parole Region Appeals Coordinator within 15 days of receipt of response.

**BYPASS**

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Second Level ☐ Granted ☐ P. Granted ☒ Denied ☐ Other

G. REVIEWER'S ACTION (Complete within 10 working days): Date assigned: \_\_\_\_\_

☒ See Attached Letter

Signature: \_\_\_\_\_

Date Completed: \_\_\_\_\_

Warden/Superintendent Signature: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

H. If dissatisfied, add data or reasons for requesting a Director's Level Review, and submit by mail to the third level within 15 days of receipt of response.

There are numerous inconsistencies! The reason C/O DeVillar didn't do a report for S/O as that he wasn't going to do one! The only reason he did was because Gilbert and I made a complete S/O report that this C/O punched the face of the port with his fist and sprayed (2) cans of pepper spray and shut the port and told us to suck it up. The S/O then said that the LT would lick us up. Reprise against us if we made the on camera statement which you can see I was under severe duress! Look at the IIS report where the C/O states he walked up and we were slugging each other and he had to spray us several times. Now look at the IIS-A statement where he said when doing a security check he saw Ym Gilbert on the top bunk and I told the C/O we weren't getting along. Then when he walked away he heard arguing again and when he returned we started to fight and he sprayed us once and we stopped fighting. This C/O didn't get his story right! Look at IIS-C C/O Villalobos statement where he said when he approached C/O DeVillar had our port open and told us to stop fighting and spray ice and we complied. No C/O saw us fighting because we weren't! I was also to the right and left in a idling cell for the C/O has while hanging from a rack. I was never decontaminated back at 7219 AS they claim his charge is false. There was no fight even the reporting C/O makes conflicting reports.

Signature: \_\_\_\_\_

Date Submitted: 11-4-07

For the Director's Review, submit all documents to: Director of Corrections  
P.O. Box 942883  
Sacramento, CA 94283-0001  
Attn: Chief, Inmate Appeals

only due process  
issues reviewed.  
S/C submitted  
separately to  
H/A Eloy Medina

DIRECTOR'S ACTION: ☐ Granted ☐ P. Granted ☒ Denied ☐ Other☒ See Attached Letter

to argue.' (This part told to us (Gilbert and I) by I/m witnesses cell 225 I/m Weatherbe and cell 247 I/m McCrackin and I/m Flores.) That C/o Delvillar was walking up C Side Stair Case shaking (2) CANS of pepper spray (Blue CANS) next thing i hear is our food tray slot open and my celly saying "you dont have to do that" AS i turned around i was blasted in my mouth, nose and Eyes with pepper spray. AS This C/o ran out he put another CAN in our cell my celly put his back to the blast so it wouldn't hit me again. AS he (The C/o) was spraying The second can he was yelling "Stop fighting! Stop fighting!" which we weren't doing! This C/o Then shut the port and said "Suck it up!" I Felt that i was going to die! The I/m in cell 225 said "That the C/o left you and your celly for 8 minutes before taking you out!" NO alarm was sounded!!! They took me out and put me in the Annex holding cage and put my celly into C-section Shower. AFTER about 4 1/2 hours They brought me back and put me back into A1-244 and Gilbert into A1-247. Why was it that C/o Delvillar had 2 CANS of C.O. pepper spray in his hands while doing a

Security Check? My Due Process was Violated because I never called C/o Delvillar to my hearing nor C/o Villalobos for that matter! I stated from the start that we weren't fighting. When I told my IE this - The IE then went and interviewed C/o ~~Del~~ Delvillar. As plainly seen this C/o (after hearing my statement) changed their statement from fighting from the start - to arguing and then fighting. This C/o should not have been allowed a second bite from the poisoned fruit! You can see that all of the C/o's that responded - Not one could lie and say we were fighting, but copied the rest of what happened from C/o Delvillar's report! As anyone can see there all the same! C/o Delvillar's original report states we were fighting and then the next statement he said "Inmate Gilbert was on the top bunk and then when I came back they were fighting!" C/o Delvillar told me on the way back to my cell about I/m Gilbert blocking for me during the second can of spray. I was never decontaminated at all. The 7219 even proves it! I was left to be tortured!! Then you can see how it was to be made like I was decontaminated at a later writing. A lot of other things left out for reasons to be stated later as well. This C/o violated people vs Blake. As he used excessive force, the use of pepper spray. Respectfully submitted, [Signature]

RECEIVED  
FEB 14 2007



## INMATE APPEAL ROUTE SLIP

*Medina*  
**To: CDW/~~VARIZ~~**

Date: September 19, 2007

From: INMATE APPEALS OFFICE

Re: Appeal Log Number **SVSP-A-07-02352** By Inmate MILAZO, K13061

Please assign this appeal to appropriate staff for **SECOND** level response.

Appeal Issue: DISCIPLINARY

Due Date: **10/31/2007**

Special Needs:

### STAFF INSTRUCTIONS:

Second level appeals require a personal interview if not afforded at the first level. Begin your response with: GRANTED, DENIED, PARTIALLY GRANTED or WITHDRAWN. When complete, return to Appeals Office. Appeals that are incomplete will be returned to the responding staff for appropriate completion. Refer to D.O.M. 54100 for instructions.

T. VARIZ, CC-II / E. MEDINA CC-II  
Appeals Coordinators  
Salinas Valley State Prison

*D1 GPL 11.8 read*

*10-16-07  
Nothing to add  
09/15*

State of California

Department of Corrections and Rehabilitation

# Memorandum

Date: October 22, 2007

To: Inmate MILAZO, K-13061  
Salinas Valley State Prison

Subject: SECOND LEVEL APPEAL RESPONSE LOG NUMBER-SVSP-A-07-02352

## ISSUE:

The appellant is submitting this appeal relative to a CDC Form 115, Rules Violation Report (RVR), Log #S07-03-0011, dated March 9, 2007 for "Mutual Combat with use of OC Pepper Spray."

The appellant states he was not involved in a mutual combat; only an argument. The RVR is false, staff utilized unnecessary force, the appellant was not decontaminated, and the Reporting Employee (RE) gave conflicting testimony.

The appellant requests that the RVR be dismissed.

## REGULATIONS:

CCR Title 15 §3315 Serious Rule Violations  
CCR Title 15 §3318 Assistance to Inmates for Serious Rule Violations  
CCR Title 15 §3320 Hearing Procedures and Time Limitations  
CCR Title 15 §3323 Disciplinary Credit Forfeiture Schedule

## SUMMARY OF INVESTIGATION:

The First Level of Review was bypassed per CCR 3084.5(b). Eloy Medina, Appeals Coordinator, was assigned to investigate this appeal at the Second Level of Review. The appellant was interviewed by CCII T. Variz on October 16, 2007.

In accordance with the CCR §3084.5 (h) Disciplinary Appeals; the RVR and supporting documentation is reviewed for procedural or due process requirements. All submitted documentation and supporting arguments have been considered. Additionally, a thorough examination has been conducted regarding the claim presented by the appellant and evaluated in accordance with Salinas Valley State Prison Operational Procedures (OP); the CCR; and the Departmental Operations Manual (DOM).

In the appeal, the appellant makes allegations of misconduct. A copy of the appeal was submitted by the Second Level Reviewer to the Hiring Authority for review. The allegations of misconduct will not be addressed in this response; only due process issues.

**Inmate MILAZO, K-13061**

**Appeal Log Number-SVSP-A-07-02352**

**Page 2 of 2**

A review of the RVR indicates that appellant was charged with CCR 3005(c), for the specific act of "Mutual Combat with use of Pepper Spray." The charge was classified as a Division "D" offense.

The discovery date of the RVR was 3/9/07. The appellant received his copy of the RVR on 3/14/07, which was within fifteen (15) days of the discovery. The appellant was provided with his copy of the entire RVR. The hearing was conducted on 4/5/07, which was within thirty (30) days of issuance of the RVR.

The RVR was not referred to the Monterey County District Attorney's (DA) office for possible prosecution.

The RVR reflects that the appellant pled "not guilty" to the charges.

The appellant was not assigned a Staff Assistant per CCR §3315(d)(2) as the appellant's TABE score was above 4.0.

The appellant was not a participant in the Mental Health Services Delivery System (MHSDS). The circumstances of the RVR did not indicate that the appellant displayed any bizarre behavior that would raise concerns about his mental health.

The appellant meet the criteria for assignment of an Investigative Employee (IE). Correctional Officer C. Reyes fulfilled the duties of an IE.

The appellant requested two witnesses on the 115A but waived the presence of the two witnesses during the hearing by signing the 115A. The appellant did not request any evidence prior to or during the hearing.

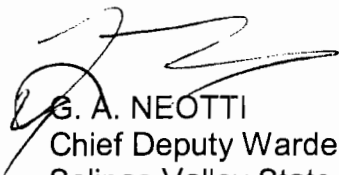
The appellant attempts to present his defense to the charges in his appeal.

The appellant is advised that the purpose of the appeals process is to identify due process/procedural errors. The SHO was able to document a preponderance of evidence to support a finding of guilt.

Therefore, this review indicates that all due process was met.

**DECISION:** The appeal is DENIED.

The appellant is advised that this issue may be submitted for a Director's Level of Review if desired.

  
G. A. NEOTTI  
Chief Deputy Warden  
Salinas Valley State Prison



804 Sent To Records On

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT

CDC NUMBER K-13061	INMATE'S NAME MILAZO	RELEASE/BOARD DATE 01/18/2014	INST. SVSP	HOUSING NO. A1-244	LOG NO. S07-03-00
VIOLATED RULE NO(S). CCR §3005(c)		SPECIFIC ACTS MUTUAL COMBAT WITH USE OF O.C. PEPPER SPRAY	LOCATION A1-244	DATE 03/09/07	TIME 0030 Hrs.
CIRCUMSTANCES					

On March 9, 2007, at approximately 0030 hours, while performing my duties as 'A' 1&2 Floor Officer, I heard yelling coming from the area of A1-244 occupied by Inmates GILBERT, E-50957, and MILAZO, K-13061. As I approached cell 244, I could see both inmates standing in the middle of the cell striking each other in the upper torso and head area with closed fist. I immediately pressed my personal alarm and ordered both inmates to stop their actions, with negative results. Fearing they may inflict serious injury upon each other. I administered O.C. Pepper Spray from my state issued MK-9 into the cell striking both inmates in the upper torso, with negative results. Both inmates continued to strike each other, I continued to give both inmates verbal orders to stop their actions, with negative results. I again administered O.C. Pepper Spray from my state issued MK-9 into the cell, striking both inmates in the facial area with positive results. I placed both inmates in handcuffs. Sergeant Clark arrived and instructed C/O Gilmore to open cell 244 and directed C/O Avalos and I to escort Inmate GILBERT to 'C' upper shower without further incident.

Inmate MILAZO is not a participant in the Mental Health Services Delivery System.

REPORTING EMPLOYEE (Typed Name and Signature) P. Delvillar, Correctional Officer	DATE 3-14-07	ASSIGNMENT Fac. A 1&2 Floor	RDO'S S/S
REVIEWING SUPERVISOR'S SIGNATURE [Signature]	DATE 3-14-07	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: D 4-90	DATE 3/14/07	CLASSIFIED BY (Typed Name and Signature) [Signature]
HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC		LOC.	

## COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) [Signature]	DATE 3/14/07	TIME 2105	TITLE OF SUPPLEMENT D 1E
S07-03-0011	BY: (STAFF'S SIGNATURE) [Signature]	DATE 3/14/07	TIME 2105	BY: (STAFF'S SIGNATURE) [Signature]
<input checked="" type="checkbox"/> INCIDENT REPORT LOG NUMBER: 7F-CEN-07-03-0155	BY: (STAFF'S SIGNATURE) [Signature]	DATE 3/14/07	TIME 2105	DATE 4/12/07

HEARING

Plea: NOT GUILTY.

**Findings:** Inmate MILAZO was found **GUILTY** of CCR §3005(c), specifically "Mutual Combat With The Use Of O.C. Pepper Spray" a Division "D" offense. This finding is based on the preponderance of evidence presented at the hearing which does substantiate the charge. The evidence presented at the hearing included: **SEE CDC-115-C.**

**Disposition:** Inmate MILAZO assessed 90 days forfeiture of credits in accordance with a Division "D" offense per CCR §3323(f)(9).

**Additional Disposition:** Inmate MILAZO was counseled, warned and reprimanded.

**Classification Referral:** N/A.

REFERRED TO ☐ CLASSIFICATION ☐ BPT/NAEA

ACTION BY: (TYPED NAME) R.A. Kessler, Correctional Lieutenant	SIGNATURE [Signature]	DATE 4/6/07	TIME 1003
REVIEWED BY: (SIGNATURE) K. Jones, Captain	DATE 4-12-07	CHIEF DISCIPLINARY OFFICER'S SIGNATURE G. Lewis, C.D.O.	DATE 4/12/07
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) [Signature]	DATE 4/15/07	TIME 1930

CDC 115 (7/88)

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT - PART C

PAGE 2 OF 3

CDC NUMBER K-13061	INMATE'S NAME MILAZO	LOG NUMBER S07-03-0011	INSTITUTION S.V.S.P.	TODAY'S DATE 04/05/07
<input type="checkbox"/> SUPPLEMENTAL <input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER				

Hearing: 04/05/07. Time: 1003 hours. Any Postponement Explained: None.

**Inmate's Health:** Inmate MILAZO stated his health was good. **MHSOG:** Inmate MILAZO is not a participant in the Mental Health Services Delivery System.

Date of Discovery: 03/09/07.

Initial RVR copy issued on: 03/14/07.

Hearing started on: 04/05/07.

Last document issued to inmate on: 04/03/07.

D.A. postponed date: None.

D.A. results issued date: None.

Time Constraints: Met.

**Staff Assistant:** A Staff Assistant was not assigned per CCR §3315(d)(2).

Inmate MILAZO's TABE score is above 4.0 as indicated in his C-file.

**Investigative Employee:** On 03/20/07, Correctional Officer C. Reyes was assigned as the Investigative Employee.**D.A. Referral:** None. **Evidence Requested:** None. **External/Outside Evidence:** None. **Video Tape Evidence:** N/A.**Inmate Plea and Statement:** Inmate MILAZO entered a plea of NOT GUILTY and stated, "We were not fighting, we were arguing."**Witnesses Requested:** During the issuance of a copy of the Rules Violation Report, Inmate MILAZO requested Inmates Florez, K-63387, and McCracken, J-21493, as witnesses. At the time of the hearing, Inmate MILAZO did not want any witnesses present and elected to waive this prior request, as documented by his signature on the CDC-115C (I.E. Report page 2 of 2) and dated 04/05/07.**Witness Testimony at Hearing:** None. **Confidential Information:** None.**Findings:** Inmate MILAZO is found GUILTY of "Mutual Combat With The Use Of O.C. Pepper Spray." This finding is based upon the following preponderance of evidence:

**A:** RVR Log #S07-03-0011 authored by Correctional Officer P. Delvillar, which states in part, "As I approached cell 244, I could see both inmates standing in the middle of the cell striking each other in the upper torso and head area with closed fist. I immediately pressed my personal alarm and ordered both inmates to stop their actions, with negative results. Fearing they may inflict serious injury upon each other. I administered O.C. Pepper Spray from my state issued MK-9 into the cell striking both inmates in the upper torso, with negative results. Both inmates continued to strike each other, I continued to give both inmates verbal orders to stop their actions, with negative results. I again administered O.C. Pepper Spray from my state issued MK-9 into the cell, striking both inmates in the facial area with positive results."

**B:** CDC-837C Staff Report Log #SVI-CEN-07-03-0155 authored by Correctional Officer K. Gilmore, which states in part, "While performing my duties as A1 Control, I heard Inmates Milazo, K-13061, A1-244L, and Gilbert, E-50957, A1-244U, yelling at each other, Correctional Officer Delvillar approached cell 244 and activated his personal alarm."

R.A. Kessler, Correctional Lieutenant

(Continued On Part C)

Final Copy To J. Reyes 4/15/07 A30

SIGNATURE OF WRITER		DATE SIGNED	
GIVEN BY: (Staff's Signature)		DATE SIGNED	
<input type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE		TIME SIGNED	

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT - PART C

PAGE 2 OF 3

CDC NUMBER K-13061	INMATE'S NAME MILAZO	LOG NUMBER S07-03-0011	INSTITUTION S.V.S.P.	TODAY'S DATE 04/05/07
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input checked="" type="checkbox"/> HEARING <input type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

## (Findings Continued)

C: CDC-8370 Staff Report Log #SVP-CEN-07-03-0155 authored by Correctional Officer A. Villalobos, which states in part, "I arrived to 244 and observed Officer Delvillar open the food port and administer his O.C. Pepper Spray inside the cell. Delvillar was giving both inmates Milazo, K-13061, and Gilbert, E-50957, verbal orders to assume a prone position and stop fighting."

D: CDC-7219 Medical Report conducted by Registered Nurse A. Kurnert indicates Inmate Milazo sustained the following injuries: small superficial laceration inside the upper lip with redness to the lip area, reddened areas to the upper chest and right shoulder area, and had to be decontaminated due to O.C. Pepper Spray exposure. This injuries are consistent with being involved in mutual combat. *Tied, 7219 shows, was never decontaminated nor checked on every 15 min and left for 4 1/2 hrs to burn and be furthered.*

E: CDC-7219 Medical Report conducted by Registered Nurse A. Kurnert indicates Inmate Gilbert had to be decontaminated due to O.C. Pepper Spray exposure. This is consistent with being involved in mutual combat.

F: The I.E. Report conducted by Correctional Officer C. Reyes, specifically wherein Inmate Milazo was interviewed regarding the charges and stated that he and Inmate Milazo were arguing. This is consistent with eyewitness accounts of the incident. *Gilbert & Milazo*

Conclusion: SHD finds a preponderance of evidence in rendering a guilty finding based on the Rules Violation Report documenting Inmate Gilbert and Milazo anguing then engaging in mutual combat with one another, which is corroborated by staff eyewitness testimony and Inmate Milazo's statement in the I.E. Report when he admitted that there was in fact an argument. This evidence is further substantiated by the injuries sustained by Inmate Milazo, including both inmate's decontamination from O.C. Pepper Spray exposure. *Red marks caused by O.C. spray and a tiny scratch on inside lip from trying to get air to breath. hook on vent caused by mail.*

Enemy Concerns: There are no enemy concerns. Inmates GILBERT, E-50957, and MILAZO, K-13061, were interviewed after the incident and both signed CDC-128B Compatibility Chronos. *A few days later J/M Gilbert was placed back in 244 with Milazo, because staff knew we didn't do.*

Appeal Rights: Inmate MILAZO was advised of his appeal rights per CCR §3084.1(a). Inmate MILAZO was also advised of the policy and procedure of credit restoration per CCR §3327. Inmate MILAZO was advised he will receive a completed copy of the RVE upon final audit by the Chief Disciplinary Officer.

R.A. Kessler, Correctional Lieutenant

Findings by C/O S. Reyes  
1930 4/15/07

SIGNATURE OF WRITER <i>R.A. Kessler</i>		DATE SIGNED 4/5/07	
GIVEN BY: (Staff's Signature)		DATE SIGNED	TIME SIGNED
<input type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE			



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**SERIOUS RULES VIOLATION REPORT**

CDC NUMBER K-13061	INMATE'S NAME MILAZO	VIOLATED RULE NO(S) CCR §3005(c)	DATE 03/09/07	INSTITUTION SVSP	LOG NO. S07-03-0011
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT ☐ YES ☒ NO**POSTPONEMENT OF DISCIPLINARY HEARING**

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION N/A	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE N/A	DATE

**STAFF ASSISTANT**

STAFF ASSISTANT	INMATE'S SIGNATURE	DATE
<input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE		
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON <b>DOES NOT MEET CRITERIA PER CCR §3315(d)(2)</b>	

**INVESTIGATIVE EMPLOYEE**

INVESTIGATIVE EMPLOYEE	INMATE'S SIGNATURE	DATE
<input checked="" type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE		
<input checked="" type="checkbox"/> ASSIGNED	DATE 03/20/07	NAME OF STAFF C. Reyes, Correctional Officer
<input type="checkbox"/> NOT ASSIGNED	REASON	

EVIDENCE / INFORMATION REQUESTED BY INMATE:

**WITNESSES**

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)					
<input type="checkbox"/> REPORTING EMPLOYEE	<input type="checkbox"/> STAFF ASSISTANT	<input type="checkbox"/> INVESTIGATIVE EMPLOYEE	<input type="checkbox"/> OTHER	<input type="checkbox"/> NONE	
WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)			WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)		
<u>FLOREZ K63387</u>	GRANTED <input type="checkbox"/>	NOT GRANTED <input type="checkbox"/>		GRANTED <input type="checkbox"/>	NOT GRANTED <input type="checkbox"/>
<u>MCCRACKEN J21493</u>	GRANTED <input type="checkbox"/>	NOT GRANTED <input type="checkbox"/>		GRANTED <input type="checkbox"/>	NOT GRANTED <input type="checkbox"/>

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

On 03/20/07, I was assigned as Investigative Employee for CDC-115 Log #S07-03-0011. I informed Inmate MILAZO of my assignment and that as Investigative Employee my duties were as a fact finder for the Senior Hearing Officer. Inmate MILAZO stated that he had no objection to my serving in this capacity.

**DEFENDANT'S STATEMENT:** On 03/20/07, I interviewed Inmate MILAZO and he made the following statement: "I am not guilty, we were not fighting, we were arguing."

**REPORTING EMPLOYEE'S STATEMENT:** On 03/21/07, I interviewed Correctional Officer Delvillar and he made the following statement: "I was doing a security check when I heard both inmates arguing. When I approached the cell I saw Inmate Gilbert lying on the top bunk. Inmate Milazo stated to me that they were not getting along. I started leaving when I heard them arguing again. When I approached the cell door front I saw both inmates standing in the middle of the cell and they started to fight. I gave them orders to stop fighting but they continued to fight. I opened the foodport and sprayed with O.C. Pepper Spray both inmates then complied with my orders."

(Continued On Part C)

Exhibit B

C. Reyes, Correctional Officer

INVESTIGATOR'S SIGNATURE C. Reyes	DATE 4/3/07
BY: (STAFF'S SIGNATURE) C. Reyes	TIME 2:05
	DATE 3/14/07

☒ COPY OF CDC 115-A GIVEN INMATE

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT - PART C

PAGE 2 OF 2

CDC NUMBER K-13061	INMATE'S NAME MILAZO	LOG NUMBER S07-03-0011	INSTITUTION S.V.S.P.	TODAY'S DATE 04/02/07
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF: <input type="checkbox"/> 115 CIRCUMSTANCES <input type="checkbox"/> HEARING <input checked="" type="checkbox"/> IE REPORT <input type="checkbox"/> OTHER			

**STAFF WITNESS' STATEMENT:** On 04/02/07, I interviewed Correctional Officer Villalobos and he made the following statement: "On that day I responded to an alarm in A1 cell 244. When I arrived Officer Delvillar had the foodport open and was giving a direct order to stop fighting. G.C. Pepper Spray was administered and both inmates complied. I then escorted one of the inmates to 'A' Health Annex."

**INVESTIGATIVE EMPLOYEE'S STATEMENT:** I went to A1 cell 244 to conduct an I.E. for Inmate Milazo and Inmate Gilbert. because both inmates requested an Investigative Employee. When I approached the cell door I saw both inmates sitting on the lower bunk. I spoke with Inmate Milazo first and he stated that they were just having an argument. However, he didn't state what they were arguing about. When a copy of the CDC-115 was issued to Inmate Milazo, he requested inmate witnesses, but during this interview Inmate Milazo did not want any witnesses and stated he was not guilty. I then spoke with Inmate Gilbert and he stated, "The same that he [Milazo] stated."

*We were Rehoused together! If we had been "Really fighting" why would they have allowed us to live together*

Reporting Employee requested at the hearing: No.  
Investigative Employee requested at the hearing: No.  
Staff / Inmate witnesses requested at the hearing: No.  
Additional information in Confidential Reports: No.

I, Im Milazo K-13061 WISH TO WITHDRAW ALL WITNESS' AT THE TIME OF THE HEARING.

*[Signature]* CDCR# K-13061 DATE 4-5-07



*Franc Cerro C/O J. Reyes*  
*4/15/07 1930*

C. Reyes, Correctional Officer

<input type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER <i>[Signature]</i>		DATE SIGNED <i>4/3/07</i>
	GIVEN BY: (Staff's Signature)	DATE SIGNED	TIME SIGNED

DEPARTMENT OF CORRECTIONS AND REHABILITATION

PAGE 1 OF <u>1</u>	INCIDENT LOG NUMBER SVP-CEN-07-03-0155	INCIDENT DATE 03/09/07	INCIDENT TIME 0030
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INSTITUTION	FACILITY	FACILITY LEVEL	INCIDENT SITE	LOCATION	<input type="checkbox"/> ASU <input type="checkbox"/> SHU <input type="checkbox"/> PSU <input checked="" type="checkbox"/> SNY <input type="checkbox"/> PHU <input type="checkbox"/> CTC <input type="checkbox"/> GP <input type="checkbox"/> RC	SEG YARD <input type="checkbox"/> CC <input type="checkbox"/> WA <input type="checkbox"/> RM	USE OF FORCE
SVSP	CEN	<input type="checkbox"/> I <input type="checkbox"/> II <input type="checkbox"/> III <input checked="" type="checkbox"/> IV	A1	CELL 244			<input checked="" type="checkbox"/> YES <input type="checkbox"/> NO

### Mutual Combat Necessitating Use of OC Pepper Spray

☒ CCR ☐ PC ☐ N/A

NUMBER/SUBSECTION: 3005 (c)

CRISIS RESPONSE TEAM ACTIVATED

MUTUAL AID REQUEST

PIO/AA NOTIFIED
-----------------

☐ YES ☒ NO☐ YES     ☒ NO☐ YES     ☒ NO

☐ YES ☒ NO

**RELATED INFORMATION (CHECK ALL THAT APPLY OR N/A)**

DEATH	CAUSE OF DEATH	ASSAULT / BATTERY	TYPE OF ASSAULT / BATTERY
<input type="checkbox"/> INMATE	<input type="checkbox"/> ACCIDENTAL <input type="checkbox"/> NATURAL	<input type="checkbox"/> ON INMATE	<input type="checkbox"/> BEATING <input type="checkbox"/> SPEARING
<input type="checkbox"/> STAFF	<input type="checkbox"/> EXECUTION <input type="checkbox"/> UNKNOWN	<input type="checkbox"/> ON STAFF	<input type="checkbox"/> GASSING <input type="checkbox"/> STABBING
<input type="checkbox"/> VISITOR	<input type="checkbox"/> HOMICIDE	<input type="checkbox"/> ON VISITOR	<input type="checkbox"/> POISONING <input type="checkbox"/> STRANGLING
<input type="checkbox"/> OTHER: _____	<input type="checkbox"/> SUICIDE	<input type="checkbox"/> OTHER: _____	<input type="checkbox"/> SEXUAL <input type="checkbox"/> OTHER: _____
<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> OVERDOSE <input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> SHOOTING <input checked="" type="checkbox"/> N/A
			<input type="checkbox"/> SLASHING

SERIOUS INJURY		INMATE WEAPONS		TYPE OF WEAPON / SHOTS FIRED / FORCE			
<input type="checkbox"/> INMATE	<input type="checkbox"/> CHEMICAL SUBSTANCE	<u>TYPE:</u>	<input type="checkbox"/> COMMERCIAL WEAPON	<u>WEAPON:</u>	<u>WARNING #</u>	<u>EFFECT #</u>	<u>BATON ROUND</u>
<input type="checkbox"/> STAFF	<input type="checkbox"/> CLUB / BLUDGEON			<input type="checkbox"/> MINI 14	_____	_____	TYPE / NO:
<input type="checkbox"/> VISITOR	<input type="checkbox"/> EXPLOSIVE			<input type="checkbox"/> 38 CAL.	_____	_____	WOOD _____
<input type="checkbox"/> OTHER: _____	<input type="checkbox"/> FIREARM	<input type="checkbox"/> INMATE MANUFACTURED WEAPON		<input type="checkbox"/> 9MM	_____	_____	RUBBER _____
<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> HANDS / FEET			<input type="checkbox"/> SHOTGUN	_____	_____	FOAM _____
	<input type="checkbox"/> KNIFE			<u>LAUNCHER:</u>			<u>STINGER :</u>
	<input type="checkbox"/> SAP/SLUNG SHOT			<input type="checkbox"/> 37MM	_____	_____	.32 (A) _____
	<input type="checkbox"/> PROJECTILE			<input type="checkbox"/> L8	_____	_____	.60 (B) _____
<u>ESCAPES</u>	<input type="checkbox"/> SPEAR			<input type="checkbox"/> 40MM	_____	_____	<u>EXACTIMPACT</u>
<input type="checkbox"/> W / FORCE	<input type="checkbox"/> SLASHING INSTRUMENT: (TYPE) _____			<input type="checkbox"/> 40MM MULTI	_____	_____	CTS 4557 _____
<input type="checkbox"/> W/O FORCE	<input type="checkbox"/> STABBING INSTRUMENT: (TYPE) _____			<input type="checkbox"/> HFWSR	_____	_____	XM 1006 _____
<input type="checkbox"/> ATTEMPTED	<input type="checkbox"/> OTHER: _____			<u>FORCE</u>			<u>CHEMICAL</u>
<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> BODILY FLUID <input type="checkbox"/> OTHER FLUID: _____			<input type="checkbox"/> EXPANDABLE BATON			<input type="checkbox"/> OC _____ MK-9
	<input type="checkbox"/> UNKNOWN LIQUID			<input type="checkbox"/> PHYSICAL FORCE			<input type="checkbox"/> CN _____
	<input checked="" type="checkbox"/> N/A			<input type="checkbox"/> X10			<input type="checkbox"/> CS _____
				<input type="checkbox"/> OTHER: _____			<input type="checkbox"/> N/A _____

CONTROLLED SUBSTANCE	WEIGHT	PROGRAM STATUS	EXCEPTIONAL ACTIVITY	
<input type="checkbox"/> POSITIVE UA	<input type="checkbox"/> WITH PACKAGING	<input type="checkbox"/> MODIFIED PROGRAM	<input type="checkbox"/> EMPLOYEE JOB ACTION	<input type="checkbox"/> WEATHER
<input type="checkbox"/> CONTROLLED MEDS	<input type="checkbox"/> W/O PACKAGING	<input type="checkbox"/> LOCKDOWN	<input type="checkbox"/> ENVIRONMENTAL HAZARD	<input type="checkbox"/> SEARCH WARRANT
	<u>PRELIMINARY</u> <u>LAB</u>	<input type="checkbox"/> STATE OF EMERGENCY	<input type="checkbox"/> EXPLOSION	<input type="checkbox"/> ARREST
<input type="checkbox"/> AMPHETAMINE	_____	IF YES, LIST AFFECTED PROGRAMS:	<input type="checkbox"/> FIRE	<input type="checkbox"/> OTHER: _____
<input type="checkbox"/> BARBITURATES	_____		<input type="checkbox"/> GANG/DISRUPTIVE GROUP	
<input type="checkbox"/> COCAINE	_____		<input type="checkbox"/> HOSTAGE	
<input type="checkbox"/> CODEINE	_____		<input type="checkbox"/> INMATE STRIKE	
<input type="checkbox"/> HEROIN	_____		<input type="checkbox"/> MAJOR DISTURBANCE	<u>EXTRACTION:</u>
<input type="checkbox"/> MARIJUANA/THC	_____		<input type="checkbox"/> MAJOR POWER OUTAGE	<input type="checkbox"/> CALCULATED
<input type="checkbox"/> METHAMPHETAMINE	_____		<input type="checkbox"/> NATURAL DISASTER	<input type="checkbox"/> EMERGENCY
<input type="checkbox"/> MORPHINE	_____		<input type="checkbox"/> PUBLIC DEMONSTRATION	
<input type="checkbox"/> OTHER: _____	_____	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> SPECIAL INTEREST I/M	<input checked="" type="checkbox"/> N/A
<input checked="" type="checkbox"/> N/A				

BRIEF DESCRIPTION OF INCIDENT (ONE OR TWO SENTENCES):

On March 9, 2007, at approximately 0030 hours, inmate Gilbert E-50957 A1-244 and Milazo K-13061 A1-244, were engaged in mutual combat in cell A1-244, necessitating the use of OC Pepper Spray to stop their actions.

COMPLETE SYNOPSIS / SUMMARY ON PART A1

NAME OF REPORTING STAFF (PRINT/TYPE) P. Roque		TITLE Lieutenant	ID # [REDACTED]	BADGE # 50751
SIGNATURE OF REPORTING STAFF [Signature]			PHONE EXT. (INCIDENT SITE) [REDACTED]	DATE 3/9/07
NAME OF WARDEN / AOD (PRINT/SIGN) G. R. Salazar [Signature]			TITLE Custody Captain (A)	DATE 3/9/07



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

## CRIME / INCIDENT REPORT

## PART A1 - SUPPLEMENT

CDCR 837-A1 (07/05)

PAGE 2 OF 5

INCIDENT LOG NUMBER

SVP-CEN-07-03-0155

INSTITUTION SVSP	FACILITY CEN	INCIDENT DATE 03/08/07	INCIDENT TIME 0515
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## TYPE OF INFORMATION:

☒ SYNOPSIS/SUMMARY OF INCIDENT
 ☐ SUPPLEMENTAL INFORMATION
 ☐ AMENDED INFORMATION
 ☐ CLOSURE REPORT

## NARRATIVE:

On March 9, 2007, at approximately 0030 hours, Officer Delvillar was performing his duties as the A 1&2 floor officer when he heard yelling coming from cell A1-244, occupied by Inmate's Gilbert E50957 and Milazo K13061. Officer Delvillar approached the cell he saw Inmate's Gilbert and Milazo striking each other in the head and upper torso area. Officer Delvillar activated his personal alarm device and gave direct orders to stop with negative results. Both inmates continued to punch each other in facial and upper torso area. Officer Delvillar then discharged his MK9 OC pepper spray, striking both inmates in and about the facial area with negative results. Officer Delvillar again gave direct orders to stop with negative results. Officer Delvillar again discharged his MK9 OC spray striking both inmates in and about the facial area with positive results. Both inmates stop fighting and complied with Officer Delvillar's verbal orders to be placed into handcuffs. Once responding staff arrived both inmates were escorted out of the cell. Inmate Gilbert was escorted By Officer's Delvillar and Avalos to the C section shower for decontamination with water. Sergeant N. Clark and Officer Villalobos escorted Inmate Milazo to the Health Services Annex holding cell #3 and decontaminated with water.

SUSPECT(S): Gilbert E50957 (A4-244U) and Milazo K13061 (A4-244L)

VICTIM(S): N/A

ESCORT(S): Inmate Gilbert was was escorted by Officers Delvillar and Avalos and secured in the C-pod shower in building A-1. Inmate Milazo was escorted by Sergeant Clark and Officer Villalobos and secured in holding cell #3 in the Health Services Annex.

EVIDENCE: No evidence was collected in this incident.

USE OF FORCE: Officer Delvillar used OC pepper spray (MK-9 5.5 fogger) *more than one can!*

MEDICAL/MENTAL HEALTH EVALUATION: RN T. A Kuhnert examined both Inmate Gilbert and Milazo and noted no injuries for Gilbert. Inmate Milazo sustained a superficial scratch to his lower lip. Neither Inmate Gilbert nor Milazo is not participant in the Mental Health Delivery system at any level of care.

CONCLUSION: Both Inmate's Gilbert and Milazo will be issued Rules Violation Reports for the specific act of "Mutual Combat". Both inmates were interviewed and signed a compatibility chrono. Inmate Milazo was re-housed in his assigned cell. Inmate Gilbert was rehoused in cell A1 247 without further incident.

NOTIFICATION: This case will not be referred to the Monterey County District Attorney's Office for prosecution. All appropriate administrative staff were notified of this incident. You will be apprised of any further developments in this matter via supplemental reports.

*Note: IF The so called "Slag Fest" went on like C/O Delvillar states on his RVR Reports Then there would be an abusive amount of injuries! Especially on I/m milazo considering I/m Gilbert is 6'11" tall and weight of 240lbs with 23 inch arms and milazo 5'10" in 150 with 18 inch arms! These 7219's are not consist with mutual combat!*

NAME OF REPORTING STAFF (PRINT/TYPE) R. Roque	TITLE Lieutenant	ID # [REDACTED]	BADGE # 50751
SIGNATURE OF REPORTING STAFF [Signature]		PHONE EXT. (INCIDENT SITE) [REDACTED]	DATE 3/9/07
NAME OF WARDEN / AOD (PRINT/SIGN) G.R. Salazar		TITLE Custody Captain (a)	DATE 3/9/07

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

**CRIME / INCIDENT REPORT**  
**PART B1 - INMATE**  
**CDCR 837-B1 (07/05)**
PAGE 3 OF 5

INSTITUTION SVSP	FACILITY CEN	INCIDENT LOG NUMBER SVP-CEN-07-03-0155
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**INMATE (ENTIRE SHEET)**

NAME: LAST Gilbert	FIRST J.	MI	CDC # E50957	SEX M	ETHNICITY Wht	FBI #	CII #	
<b>CHECK ONE</b> <input type="checkbox"/> VICTIM <input checked="" type="checkbox"/> SUSPECT <input type="checkbox"/> WITNESS	CLASS SCORE 166	PV RTC <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DATE REC'D BY CDC	DATE REC'D BY INST	ANTICIPATED RELEASE DATE	EXTRACTION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DOB	HOUSING ASSIGN.
<input type="checkbox"/> CCCMS <input type="checkbox"/> MHCBC	<input type="checkbox"/> EOP <input type="checkbox"/> DDP	<input type="checkbox"/> DPP <input checked="" type="checkbox"/> N/A	COMMITMENT OFFENSE				COUNTY OF COMMITMENT	

DESCRIPTION OF INJURIES:

PRISON GANG / DISRUPTIVE GROUP

☒ N/A☐ VALIDATED ☐ ASSOCIATED ☒ N/A
☐ HOSPITALIZED ☒ TREATED & RELEASED ☐ REFUSED TREATMENT  
☐ DECEASED DATE: ☐ N/A

NAME/LOCATION OF HOSP./TREAT. FACILITY

☐ N/A A Health Services

NAME: LAST Milazo	FIRST M.	MI	CDC # K13061	SEX M	ETHNICITY Wht	FBI #	CII #	
<b>CHECK ONE</b> <input type="checkbox"/> VICTIM <input checked="" type="checkbox"/> SUSPECT <input type="checkbox"/> WITNESS	CLASS SCORE 59	PV RTC <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DATE REC'D BY CDC	DATE REC'D BY INST	ANTICIPATED RELEASE DATE	EXTRACTION <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	DOB	HOUSING ASSIGN.
<input type="checkbox"/> CCCMS <input type="checkbox"/> MHCBC	<input type="checkbox"/> EOP <input type="checkbox"/> DDP	<input type="checkbox"/> DPP <input checked="" type="checkbox"/> N/A	COMMITMENT OFFENSE				COUNTY OF COMMITMENT	

DESCRIPTION OF INJURIES:

PRISON GANG / DISRUPTIVE GROUP

superficial scratch to lower lip

☐ N/A☐ VALIDATED ☐ ASSOCIATED ☒ N/A
☐ HOSPITALIZED ☒ TREATED & RELEASED ☐ REFUSED TREATMENT  
☐ DECEASED DATE: ☐ N/A

NAME/LOCATION OF HOSP./TREAT. FACILITY

☐ N/A A Health Services

NAME: LAST	FIRST	MI	CDC #	SEX	ETHNICITY	FBI #	CII #	
<b>CHECK ONE</b> <input type="checkbox"/> VICTIM <input type="checkbox"/> SUSPECT <input type="checkbox"/> WITNESS	CLASS SCORE	PV RTC <input type="checkbox"/> YES <input type="checkbox"/> NO	DATE REC'D BY CDC	DATE REC'D BY INST	ANTICIPATED RELEASE DATE	EXTRACTION <input type="checkbox"/> YES <input type="checkbox"/> NO	DOB	HOUSING ASSIGN.
<input type="checkbox"/> CCCMS <input type="checkbox"/> MHCBC	<input type="checkbox"/> EOP <input type="checkbox"/> DDP	<input type="checkbox"/> DPP <input type="checkbox"/> N/A	COMMITMENT OFFENSE				COUNTY OF COMMITMENT	

DESCRIPTION OF INJURIES:

PRISON GANG / DISRUPTIVE GROUP

☐ N/A☐ VALIDATED ☐ ASSOCIATED ☐ N/A
☐ HOSPITALIZED ☐ TREATED & RELEASED ☐ REFUSED TREATMENT  
☐ DECEASED DATE: ☐ N/A

NAME/LOCATION OF HOSP./TREAT. FACILITY

☐ N/A

NAME: LAST	FIRST	MI	CDC #	SEX	ETHNICITY	FBI #	CII #	
<b>CHECK ONE</b> <input type="checkbox"/> VICTIM <input type="checkbox"/> SUSPECT <input type="checkbox"/> WITNESS	CLASS SCORE	PV RTC <input type="checkbox"/> YES <input type="checkbox"/> NO	DATE REC'D BY CDC	DATE REC'D BY INST	ANTICIPATED RELEASE DATE	EXTRACTION <input type="checkbox"/> YES <input type="checkbox"/> NO	DOB	HOUSING ASSIGN.
<input type="checkbox"/> CCCMS <input type="checkbox"/> MHCBC	<input type="checkbox"/> EOP <input type="checkbox"/> DDP	<input type="checkbox"/> DPP <input type="checkbox"/> N/A	COMMITMENT OFFENSE				COUNTY OF COMMITMENT	

DESCRIPTION OF INJURIES:

PRISON GANG / DISRUPTIVE GROUP

☐ N/A☐ VALIDATED ☐ ASSOCIATED ☐ N/A
☐ HOSPITALIZED ☐ TREATED & RELEASED ☐ REFUSED TREATMENT  
☐ DECEASED DATE: ☐ N/A

NAME/LOCATION OF HOSP./TREAT. FACILITY

☐ N/A

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

**CRIME / INCIDENT REPORT**  
**PART B2- STAFF**  
**CDCR 837-B2 (07/05)**
PAGE 4 OF 6

INSTITUTION SVSP	FACILITY CEN	INCIDENT LOG NUMBER SVP-CEN-07-03-0155
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## STAFF (ENTIRE SHEET)

NAME: LAST Clark	FIRST N	MI	TITLE Sgt.	SEX F	ETHNICITY Blk	RDO'S M/T
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<b>CHECK ONE</b> <input type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input checked="" type="checkbox"/> RESPONDER <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE # [REDACTED]	POST ASSIGN. # 110320	POSITION A Sgt
DESCRIPTION OF INJURIES: <input checked="" type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input checked="" type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input checked="" type="checkbox"/> N/A	USED FORCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE: _____	PROCESSED EVIDENCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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NAME: LAST Delvillar	FIRST P	MI	TITLE C/O	SEX M	ETHNICITY His	RDO'S S/S
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<b>CHECK ONE</b> <input checked="" type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input type="checkbox"/> RESPONDER <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE # [REDACTED]	POST ASSIGN. # 111150	POSITION A 1&2 Floor
DESCRIPTION OF INJURIES: <input checked="" type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input checked="" type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input checked="" type="checkbox"/> N/A	USED FORCE <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO TYPE: MK-9	PROCESSED EVIDENCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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NAME: LAST Villalobos	FIRST A	MI	TITLE C/O	SEX M	ETHNICITY His	RDO'S S/S
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<b>CHECK ONE</b> <input checked="" type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input type="checkbox"/> RESPONDER <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE # [REDACTED]	POST ASSIGN. # 111170	POSITION A S&E
DESCRIPTION OF INJURIES: <input type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input checked="" type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input checked="" type="checkbox"/> N/A	USED FORCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE: _____	PROCESSED EVIDENCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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NAME: LAST Avalos	FIRST D	MI	TITLE C/O	SEX F	ETHNICITY His	RDO'S M/T
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<b>CHECK ONE</b> <input type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input checked="" type="checkbox"/> RESPONDER <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE # [REDACTED]	POST ASSIGN. # 111173	POSITION A I/P
DESCRIPTION OF INJURIES: <input checked="" type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input checked="" type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input checked="" type="checkbox"/> N/A	USED FORCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE: _____	PROCESSED EVIDENCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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NAME: LAST Gilmore	FIRST K	MI	TITLE C/O	SEX M	ETHNICITY Blk	RDO'S W/T
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<b>CHECK ONE</b> <input type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input type="checkbox"/> RESPONDER <input checked="" type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE # [REDACTED]	POST ASSIGN. # 111130	POSITION A1 Control
DESCRIPTION OF INJURIES: <input checked="" type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input checked="" type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input checked="" type="checkbox"/> N/A	USED FORCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE: _____	PROCESSED EVIDENCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

## CRIME / INCIDENT REPORT

PART B2- STAFF

CDCR 837-B2 (07/05)

PAGE 5 OF 5

INSTITUTION SVSP	FACILITY CEN	INCIDENT LOG NUMBER SVP-CEN-07-03-0155
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## STAFF (ENTIRE SHEET)

NAME: LAST Kuhnert	FIRST A	MI	TITLE RN	SEX F	ETHNICITY Wht	RDO'S Vary
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<b>CHECK ONE</b> <input type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input checked="" type="checkbox"/> RESPONDER <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE # [REDACTED]	POST ASSIGN. # N/A	POSITION ER Nurse
DESCRIPTION OF INJURIES: <input checked="" type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input checked="" type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input checked="" type="checkbox"/> N/A	USED FORCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO TYPE: _____	PROCESSED EVIDENCE <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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NAME: LAST	FIRST	MI	TITLE	SEX	ETHNICITY	RDO'S
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<b>CHECK ONE</b> <input type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input type="checkbox"/> RESPONDER <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE #	POST ASSIGN. #	POSITION
DESCRIPTION OF INJURIES: <input type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input type="checkbox"/> N/A	USED FORCE <input type="checkbox"/> YES <input type="checkbox"/> NO TYPE: _____	PROCESSED EVIDENCE <input type="checkbox"/> YES <input type="checkbox"/> NO
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NAME: LAST	FIRST	MI	TITLE	SEX	ETHNICITY	RDO'S
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<b>CHECK ONE</b> <input type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input type="checkbox"/> RESPONDER <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE #	POST ASSIGN. #	POSITION
DESCRIPTION OF INJURIES: <input type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input type="checkbox"/> N/A	USED FORCE <input type="checkbox"/> YES <input type="checkbox"/> NO TYPE: _____	PROCESSED EVIDENCE <input type="checkbox"/> YES <input type="checkbox"/> NO
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NAME: LAST	FIRST	MI	TITLE	SEX	ETHNICITY	RDO'S
------------	-------	----	-------	-----	-----------	-------

<b>CHECK ONE</b> <input type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input type="checkbox"/> RESPONDER <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE #	POST ASSIGN. #	POSITION
DESCRIPTION OF INJURIES: <input type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input type="checkbox"/> N/A	USED FORCE <input type="checkbox"/> YES <input type="checkbox"/> NO TYPE: _____	PROCESSED EVIDENCE <input type="checkbox"/> YES <input type="checkbox"/> NO
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NAME: LAST	FIRST	MI	TITLE	SEX	ETHNICITY	RDO'S
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<b>CHECK ONE</b> <input type="checkbox"/> PRIMARY <input type="checkbox"/> CAMERA <input type="checkbox"/> RESPONDER <input type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM	BADGE #	POST ASSIGN. #	POSITION
DESCRIPTION OF INJURIES: <input type="checkbox"/> N/A			

<input type="checkbox"/> HOSPITALIZED <input type="checkbox"/> TREATED & RELEASED <input type="checkbox"/> REFUSED TREATMENT <input type="checkbox"/> DECEASED DATE: _____ <input type="checkbox"/> N/A	NAME/LOCATION OF HOSP./TREAT. FACILITY <input type="checkbox"/> N/A	USED FORCE <input type="checkbox"/> YES <input type="checkbox"/> NO TYPE: _____	PROCESSED EVIDENCE <input type="checkbox"/> YES <input type="checkbox"/> NO
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STATE OF CALIFORNIA

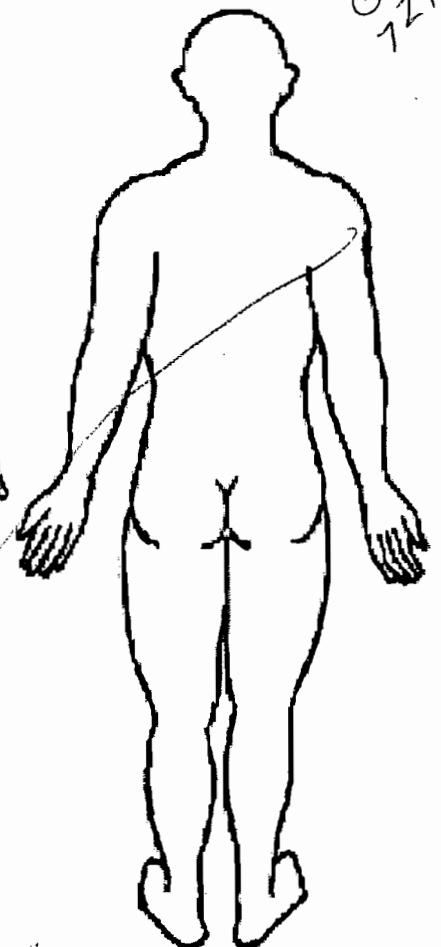
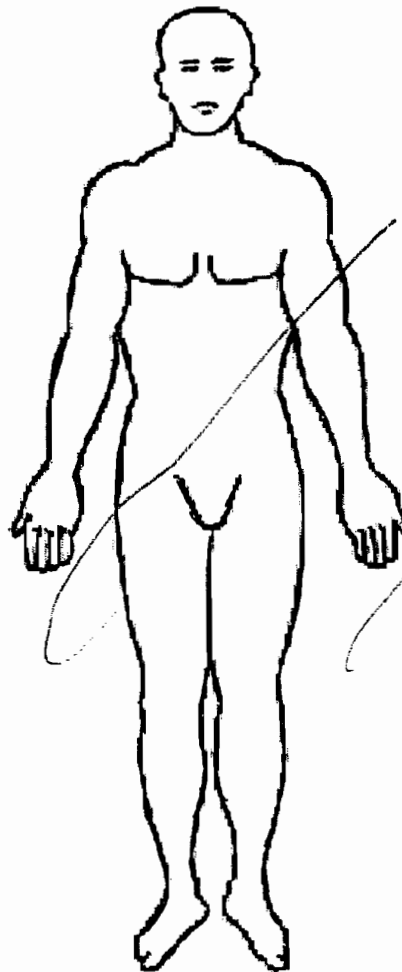
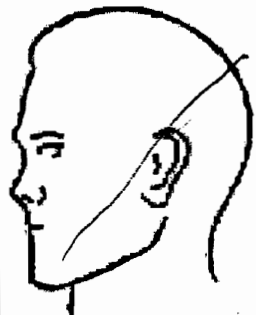
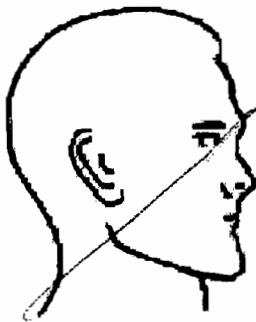
DEPARTMENT OF CORRECTIONS

**MEDICAL REPORT OF INJURY  
OR UNUSUAL OCCURRENCE**

NAME OF INSTITUTION <b>SVSP</b>	FACILITY/UNIT <b>SVSP</b>	REASON FOR REPORT (circle) <b>USE OF FORCE</b>	INJURY UNUSUAL OCCURRENCE	ON THE JOB INJURY PRE AD/SEG ADMISSION	DATE <b>3/9/07</b>
THIS SECTION FOR INMATE ONLY	NAME LAST <b>GILBERT</b> FIRST <b>DOB</b> DOB <b>6-28-64</b>	CDC NUMBER <b>E50957</b>	HOUSING LOC. <b>A1244</b>	NEW HOUSING LOC.	
THIS SECTION FOR STAFF ONLY	NAME LAST FIRST	BADGE #	RANK/CLASS	ASSIGNMENT/RDOs	
THIS SECTION FOR VISITOR ONLY	NAME LAST FIRST MIDDLE	DOB	OCCUPATION		
HOME ADDRESS		CITY	STATE	ZIP	HOME PHONE
PLACE OF OCCURRENCE <b>A1244</b>	DATE/TIME OF OCCURRENCE <b>3/9/07 0040</b>	NAME OF WITNESS(ES)			
TIME NOTIFIED <b>0045</b>	TIME SEEN <b>0055</b>	ESCORTED BY	MODE OF ARRIVAL (circle) <b>AMBULATORY</b>	LITTER ON SITE	WHEELCHAIR
AGE	RACE	SEX			
BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE					

*in shower & injuries*

INJURIES FOUND?	YES / NO
Abrasion/Scratch	1
Active Bleeding	2
Broken Bone	3
Bruise/Discolored Area	4
Burn	5
Dislocation	6
Dried Blood	7
Fresh Tattoo	8
Cut/Laceration/Slash	9
O.C. Spray Area	10
Pain	11
Protrusion	12
Puncture	13
Reddened Area	14
Skin Flap	15
Swollen Area	16
Other	17
	18
	19
O.C. SPRAY EXPOSURE?	YES / NO
DECONTAMINATED?	YES / NO
Self-decontamination instructions given?	YES / NO
Refused decontamination?	YES / NO
Q 15 min. checks	
Staff issued exposure packet?	YES / NO



*Note  
No injuries  
on  
Gilbert  
7219*

RN NOTIFIED/TIME <b>0045</b>	PHYSICIAN NOTIFIED/TIME	REPORT COMPLETED BY/TITLE (PRINT AND SIGN) <b>AK</b>	BADGE #	RDOs
TIME/DISPOSITION <b>0045</b>				

(Medical data is to be included in progress note or emergency care record filed in UHR)

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

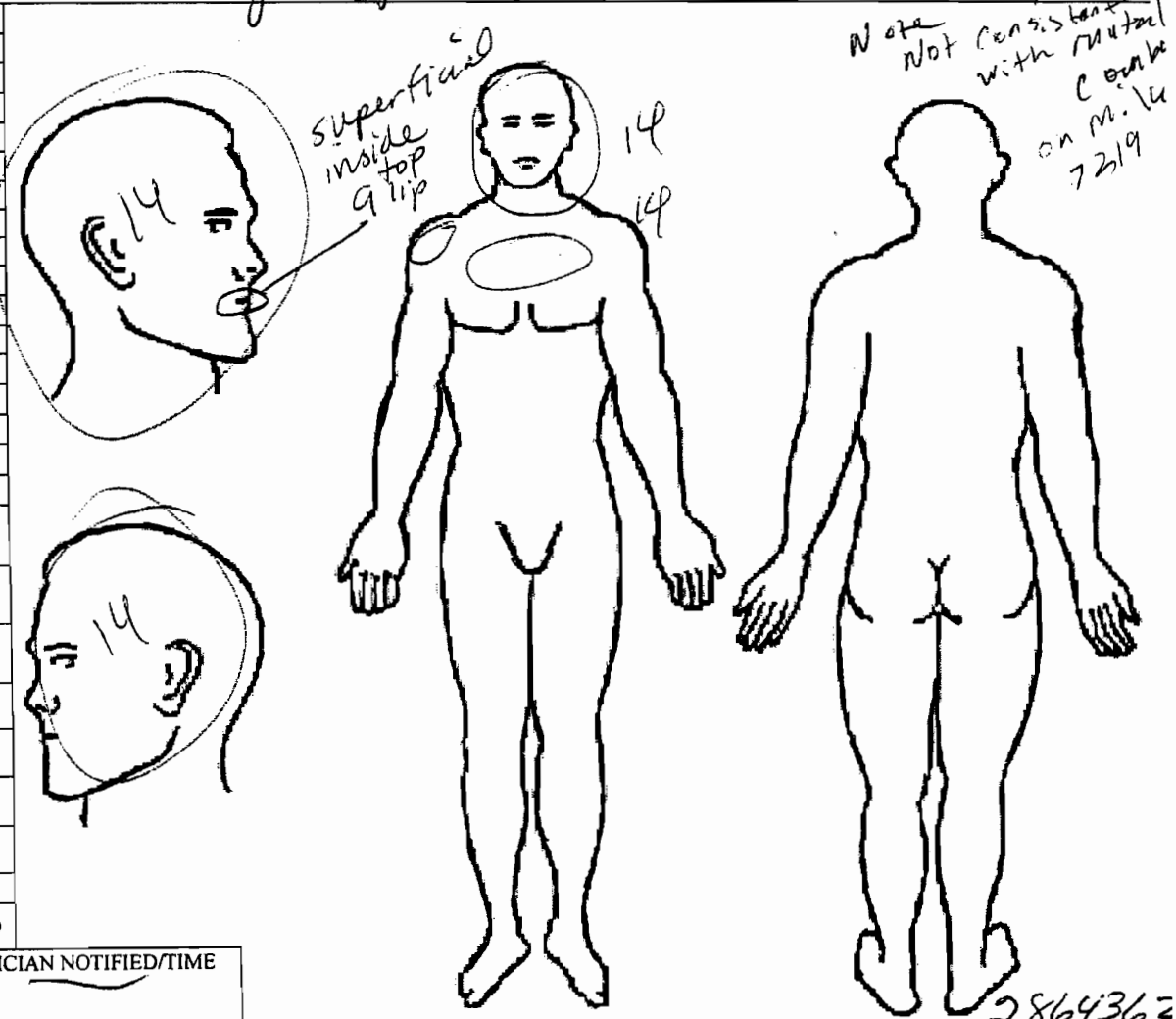
MEDICAL REPORT OF INJURY  
OR UNUSUAL OCCURRENCE

NAME OF INSTITUTION <b>SJS</b>	FACILITY/UNIT <b>SUSP</b>	REASON FOR REPORT (circle) <b>USE OF FORCE</b>	INJURY <b>OC</b>	ON THE JOB INJURY <b>UNUSUAL OCCURRENCE</b>	DATE <b>3/9/07</b>
THIS SECTION FOR INMATE ONLY	NAME <b>LAST Milaso</b>	FIRST <b>FIRST</b>	CDC NUMBER <b>K13061</b>	HOUSING LOC. <b>A1244</b>	NEW HOUSING LOC.
THIS SECTION FOR STAFF ONLY	NAME <b>LAST</b>	FIRST <b>FIRST</b>	BADGE #	RANK/CLASS	ASSIGNMENT/RDOs
THIS SECTION FOR VISITOR ONLY	NAME <b>LAST</b>	FIRST <b>FIRST</b>	MIDDLE	DOB	OCCUPATION
HOME ADDRESS		CITY	STATE	ZIP	HOME PHONE
PLACE OF OCCURRENCE <b>A1244</b>	DATE/TIME OF OCCURRENCE <b>3/9/07 0040</b>		NAME OF WITNESS(ES)		
TIME NOTIFIED <b>0045</b>	TIME SEEN <b>0058</b>	ESCORTED BY	MODE OF ARRIVAL (circle) <b>AMBULATORY</b>	LITTER <b>ON SITE</b>	WHEELCHAIR
AGE	RACE	SEX			

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE

I'm seen @ A yard small lac superficial inside 7 lip. Speaks in Full sentences & SOB

INJURIES FOUND?	YES / NO
Abrasion/Scratch	1
Active Bleeding	2
Broken Bone	3
Bruise/Discolored Area	4
Burn	5
Dislocation	6
Dried Blood	7
Fresh Tattoo	8
Cut/Laceration/Slash	9
O.C. Spray Area	10
Pain	11
Protrusion	12
Puncture	13
Reddened Area	14
Skin Flap	15
Swollen Area	16
Other	17
	18
	19
O.C. SPRAY EXPOSURE?	<b>YES</b> / NO
DECONTAMINATED?	YES / NO
Self-decontamination instructions given?	YES / NO
Refused decontamination?	YES / NO
Q 15 min. checks	
Staff issued exposure packet?	YES / NO



RN NOTIFIED/TIME <b>0045</b>	PHYSICIAN NOTIFIED/TIME	REPORT COMPLETED BY/TITLE (PRINT AND SIGN) <b>Q. Kuhner</b>	BADGE # <b>12</b>	RDOs <b>Var</b>
TIME/DISPOSITION <b>0045</b>				

(Medical data is to be included in progress note or emergency care record filed in UHR)



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

**CRIME / INCIDENT REPORT****PART C- STAFF REPORT**

CDCR 837-C (Rev. 07/05)

PAGE 1 OF 1

INCIDENT LOG NUMBER

SVP-CEN-07-03-0155

NAME: LAST Gilmore		FIRST K		MI	DATE OF INCIDENT 03/09/07	TIME OF INCIDENT 0030
POST # 111130	POSITION A1 Control	YEARS OF SERVICE 4 YR. 6 MO.	DATE OF REPORT 03/09/07		LOCATION OF INCIDENT A1-244	
RDO's W/T	DUTY HOURS 2200/0600	DESCRIPTION OF CRIME / INCIDENT Mutual Combat With the use of O.C			CCR SECTION / RULE 3005 (c) <input type="checkbox"/> N/A	

YOUR ROLE	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)	INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESS)	
<input type="checkbox"/> PRIMARY <input type="checkbox"/> RESPONDER <input checked="" type="checkbox"/> WITNESS <input type="checkbox"/> VICTIM <input type="checkbox"/> CAMERA	N. Clark SGT. (s)	Gilbert E-50957 (s)	Milazo K-13061 (s)

FORCE USED BY YOU	WEAPONS AND SHOTS FIRED BY YOU		CHEMICAL AGENTS USE BY YOU
<input type="checkbox"/> WEAPON <input type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input checked="" type="checkbox"/> NONE	<b>NO:</b> <input type="checkbox"/> MINI-14 <input type="checkbox"/> 9 MM <input type="checkbox"/> 38 CAL <input type="checkbox"/> SHOTGUN <input checked="" type="checkbox"/> N/A	<b>NO:</b> <input type="checkbox"/> 37MM <input type="checkbox"/> 40 MM <input type="checkbox"/> L8 <input type="checkbox"/> 40 MULTI <input type="checkbox"/> HFWRS <input type="checkbox"/> BATON	<b>TYPE:</b> <input type="checkbox"/> OC <input type="checkbox"/> CN <input type="checkbox"/> CS <input type="checkbox"/> OTHER: <input checked="" type="checkbox"/> N/A
<b>FORCE OBSERVED BY YOU</b> <input type="checkbox"/> WEAPON <input type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input checked="" type="checkbox"/> NONE			

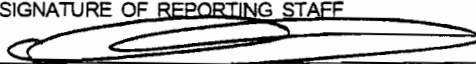

EVIDENCE COLLECTED BY YOU	EVIDENCE DESCRIPTION	EVIDENCE DISPOSITION	BIO HAZARD	PPE
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
REPORTING STAFF INJURED	DESCRIPTION OF INJURY	LOCATION TREATED (HOSPITAL / CLINIC)	FLUID EXPOSURE	SCIF 3301 / 3067 COMPLETED
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> BODILY <input type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER: <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

**NARRATIVE:**

On March 9, 2007 at approximately 0030 hours, while performing my duties as A1 control I heard inmates Milazo K-13061 A1-244L and Gilbert E-50957 A1-244U yelling at each other, Correctional Officer Delvillar approached cell 244 and activated his personal alarm due to my position at the control panel to allow the entry of responding staff. I did not see any use of force. Responding staff arrived and Sergeant Clark instructed me to open cell 244 both inmates were escorted out of the cell by responding staff without further incident.

*Correct statement except for Akim.*

☐ CHECK IF NARRATIVE IS CONTINUED ON PART C1

SIGNATURE OF REPORTING STAFF 	TITLE C/O	BADGE # 	DATE 3/9/07
NAME AND TITLE OF REVIEWER (PRINT / SIGNATURE) M. M. Kelly Supervisor	DATE RECEIVED 3-9-2007	APPROVED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		DATE 3-9-2007	

Distribution: Original: Incident Package Copy: Reporting Employee Copy: Reviewing Supervisor

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

**CRIME / INCIDENT REPORT**  
**PART C- STAFF REPORT**  
**CDCR 837-C (Rev. 07/05)**
PAGE 1 OF 1INCIDENT LOG NUMBER  
SVP-CEN-07-03-0155

NAME: LAST Avalos		FIRST D.		MI	DATE OF INCIDENT 03/09/07	TIME OF INCIDENT 0030
POST # 111173 R	POSITION Facility A I/P	YEARS OF SERVICE YR. 8 MO.		DATE OF REPORT 03/09/07	LOCATION OF INCIDENT A1-Cell 244	
RDO's MT	DUTY HOURS 2200-0600	DESCRIPTION OF CRIME / INCIDENT Mutual Combat W/ Use of O.C				CCR SECTION / RULE 3005 (c) <input checked="" type="checkbox"/> N/A

YOUR ROLE	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)	INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESS)
<input type="checkbox"/> PRIMARY	(S) N. Clark (SGT)	Gilbert E-50957 (S)
<input checked="" type="checkbox"/> RESPONDER	(S) P. Delvillar (CO)	Milazo K-13061 (S)
<input type="checkbox"/> WITNESS		
<input type="checkbox"/> VICTIM		
<input type="checkbox"/> CAMERA		

FORCE USED BY YOU	WEAPONS AND SHOTS FIRED BY YOU	CHEMICAL AGENTS USE BY YOU
<input type="checkbox"/> WEAPON <input type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input checked="" type="checkbox"/> NONE	NO: <input type="checkbox"/> MINI-14 <input type="checkbox"/> 37MM <input type="checkbox"/> 9 MM <input type="checkbox"/> 40 MM <input type="checkbox"/> 38 CAL <input type="checkbox"/> L8 <input type="checkbox"/> SHOTGUN <input type="checkbox"/> 40 MULTI <input checked="" type="checkbox"/> N/A <input type="checkbox"/> HFWRS <input type="checkbox"/> BATON	TYPE: <input type="checkbox"/> OC <input type="checkbox"/> CN <input type="checkbox"/> CS <input type="checkbox"/> OTHER: <input checked="" type="checkbox"/> N/A
FORCE OBSERVED BY YOU <input type="checkbox"/> WEAPON <input type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input checked="" type="checkbox"/> NONE		

EVIDENCE COLLECTED BY YOU	EVIDENCE DESCRIPTION	EVIDENCE DISPOSITION	BIO HAZARD	PPE
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

REPORTING STAFF INJURED	DESCRIPTION OF INJURY	LOCATION TREATED (HOSPITAL / CLINIC)	FLUID EXPOSURE	SCIF 3301 / 3067 COMPLETED
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> BODILY <input checked="" type="checkbox"/> N/A <input type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER:	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

**NARRATIVE:**

On March 9, 2007 at approximately 0030 hours, while performing my duties as the Alpha Inner Perimeter Officer, I responded to an audible alarm in Facility A Building 1. When I arrived to the incident location, I was instructed by Sergeant N. Clark to assist C/O Delvillar in escorting Inmate Gilbert E-50957 A1 244 to upper C section shower. Gilbert was medically examined and decontaminated without further incident.

*Correct statement*☐ CHECK IF NARRATIVE IS CONTINUED ON PART C1

SIGNATURE OF REPORTING STAFF <i>Avalos</i>	TITLE <i>CO</i>	BADGE # <i>[REDACTED]</i>	DATE 03/09/07
NAME AND TITLE OF REVIEWER (PRINT / SIGNATURE) <i>[Signature]</i>	DATE RECEIVED <i>3/9/07</i>	APPROVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		DATE <i>3/9/07</i>	

Distribution: Original Incident Package Copy: Reporting Employee Copy: Reviewing Supervisor

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

**CRIME / INCIDENT REPORT**  
**PART C-STAFF REPORT**  
**CDCR 837-C (Rev. 07/05)**
PAGE 1 OF 1INCIDENT LOG NUMBER  
SVP-CEN-07-03-0155

NAME: LAST Villalobos		FIRST A		MI	DATE OF INCIDENT 03/09/07	TIME OF INCIDENT 0030
POST # 111170	POSITION Facility A, S&E	YEARS OF SERVICE 4 YR. MO.	DATE OF REPORT 03/09/07		LOCATION OF INCIDENT Facility A, Build 1, Cell 244	
RDO's S/S	DUTY HOURS 2200-0600	DESCRIPTION OF CRIME / INCIDENT Mutual Combat W/Use of O.C. Pepper Spray			CCR SECTION / RULE <input type="checkbox"/> N/A 3005(c)	

YOUR ROLE	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)	INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESS)	
<input type="checkbox"/> PRIMARY	(S) Sgt. Clark	(S) Milazo K-13061	A1-244L
<input checked="" type="checkbox"/> RESPONDER	(S) C/O Delvillar	(S) Gilbert E-50957	A1-244U
<input type="checkbox"/> WITNESS			
<input type="checkbox"/> VICTIM			
<input type="checkbox"/> CAMERA			

FORCE USED BY YOU	WEAPONS AND SHOTS FIRED BY YOU			CHEMICAL AGENTS USE BY YOU
<input type="checkbox"/> WEAPON	<u>NO:</u>			<u>TYPE:</u>
<input type="checkbox"/> PHYSICAL	<input type="checkbox"/> MINI-14	<input type="checkbox"/> 37MM		<input type="checkbox"/> OC
<input type="checkbox"/> CHEMICAL	<input type="checkbox"/> 9 MM	<input type="checkbox"/> 40 MM		<input type="checkbox"/> CN
<input checked="" type="checkbox"/> NONE	<input type="checkbox"/> 38 CAL	<input type="checkbox"/> L8		<input type="checkbox"/> CS
<b>FORCE OBSERVED BY YOU</b>	<input type="checkbox"/> SHOTGUN	<input type="checkbox"/> 40 MULTI		<input type="checkbox"/> OTHER:
<input type="checkbox"/> WEAPON	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> HFWS		<input checked="" type="checkbox"/> N/A
<input type="checkbox"/> PHYSICAL		<input type="checkbox"/> BATON		
<input checked="" type="checkbox"/> CHEMICAL				
<input type="checkbox"/> NONE				

EVIDENCE COLLECTED BY YOU	EVIDENCE DESCRIPTION	EVIDENCE DISPOSITION	BIO HAZARD	PPE
<input type="checkbox"/> YES			<input type="checkbox"/> YES	<input type="checkbox"/> YES
<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> NO
REPORTING STAFF INJURED	DESCRIPTION OF INJURY	LOCATION TREATED (HOSPITAL / CLINIC)	FLUID EXPOSURE	SCIF 3301 / 3067 COMPLETED
<input type="checkbox"/> YES			<input type="checkbox"/> BODILY <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> YES
<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> UNKNOWN	<input checked="" type="checkbox"/> NO
			<input type="checkbox"/> OTHER:	

**NARRATIVE:**

On March 9, 2007, at approximately 0030 hours, I responded to an audible alarm in Facility A, Building 1, Cell 244. I arrived to cell 244 and observed Officer Delvillar open the food port and administer his O.C. pepper spray inside the cell. Delvillar was giving both inmates Milazo K-13061 and Gilbert E-50957 verbal orders to assume the prone position and stop fighting. Officer Delvillar was standing in front of the cell door, so I was unable to see where he administered the O.C. pepper spray. Both inmates complied with his orders and assumed the prone position. Officer Delvillar placed both inmates in handcuffs. Sgt. Clark arrived and instructed the control booth officer to open cell door 244. Sgt. Clark and I escorted inmate Milazo K-13061 to the Facility A Health Annex Building, and placed him in holding cell #3. I searched the holding cell prior to placing inmate Milazo for any contraband with negative results. Inmate Milazo was decontaminated with copious amounts of cool running water, and medically examined by the Emergency Room Nurse. Inmate Milazo was rehoused with no further incident. This concludes my report.

☐ CHECK IF NARRATIVE IS CONTINUED ON PART C1

SIGNATURE OF REPORTING STAFF 	TITLE C/O	BADGE # 	DATE 03/09/07
NAME AND TITLE OF REVIEWER (PRINT / SIGNATURE) 	DATE RECEIVED 3/9/07	APPROVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
			DATE 3/9/07

Distribution: Original: Incident Package Copy: Reporting Employee Copy: Reviewing Supervisor

*This C/O states once C/O Delvillar gave the order to stop this "so called fighting!" We complied at once! C/O Villalobos states C/O Delvillar sprayed the inmates without warning, not over and over.*



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

## CRIME / INCIDENT REPORT

## PART C- STAFF REPORT

CDCR 837-C (Rev. 07/05)

PAGE 1 OF 1

INCIDENT LOG NUMBER

SVP-CEN-07-03-0155

NAME: LAST Clark	FIRST N.	MI	DATE OF INCIDENT 03/09/07	TIME OF INCIDENT 0030
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POST # 110320 R	POSITION A-Facility Sergeant	YEARS OF SERVICE 11 YR. MO.	DATE OF REPORT 03/09/07	LOCATION OF INCIDENT A1-CELL 244
--------------------	---------------------------------	--------------------------------	----------------------------	-------------------------------------

RDO's M/T	DUTY HOURS 2200/0600	DESCRIPTION OF CRIME / INCIDENT MUTUAL COMBAT WITH THE USE OF OC	CCR SECTION / RULE 3005c	<input type="checkbox"/> N/A
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YOUR ROLE	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)	INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESS)
<input type="checkbox"/> PRIMARY	(S)SGT. CLARK N	(S) GILMORE K
<input checked="" type="checkbox"/> RESPONDER	(S)RN/KUHNERT A	(S)MILAZO K-13061
<input type="checkbox"/> WITNESS	(S)C/O DEVILLAR	(S)GILBERT E-50957
<input type="checkbox"/> VICTIM	(S)C/O VILLABOS	
<input type="checkbox"/> CAMERA	(S)C/O AVALOS D	

FORCE USED BY YOU	WEAPONS AND SHOTS FIRED BY YOU	CHEMICAL AGENTS USE BY YOU
<input type="checkbox"/> WEAPON	<u>NO:</u>	<u>TYPE:</u>
<input type="checkbox"/> PHYSICAL	<input type="checkbox"/> MINI-14	<input type="checkbox"/> OC
<input type="checkbox"/> CHEMICAL	<input type="checkbox"/> 9 MM	<input type="checkbox"/> CN
<input checked="" type="checkbox"/> NONE	<input type="checkbox"/> 38 CAL	<input type="checkbox"/> CS
<b>FORCE OBSERVED BY YOU</b>	<input type="checkbox"/> SHOTGUN	<input type="checkbox"/> OTHER:
<input type="checkbox"/> WEAPON	<input type="checkbox"/> 37MM	<input checked="" type="checkbox"/> N/A
<input type="checkbox"/> PHYSICAL	<input type="checkbox"/> 40 MM	
<input type="checkbox"/> CHEMICAL	<input type="checkbox"/> L8	
<input checked="" type="checkbox"/> NONE	<input type="checkbox"/> 40 MULTI	
	<input type="checkbox"/> HFWRs	
	<input type="checkbox"/> BATON	

EVIDENCE COLLECTED BY YOU	EVIDENCE DESCRIPTION	EVIDENCE DISPOSITION	BIO HAZARD	PPE
<input type="checkbox"/> YES			<input type="checkbox"/> YES	<input type="checkbox"/> YES
<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> NO	<input type="checkbox"/> NO

REPORTING STAFF INJURED	DESCRIPTION OF INJURY	LOCATION TREATED (HOSPITAL / CLINIC)	FLUID EXPOSURE	SCIF 3301 / 3067 COMPLETED
<input type="checkbox"/> YES			<input type="checkbox"/> BODILY	<input type="checkbox"/> YES
<input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> NO

## NARRATIVE:

On March 9, 2007 at approximately 0030 hours while on duty as Facility A Sergeant. I Correctional Sergeant N. Clark responded audible alarm in A Facility Building 1. When I arrived to A 1 correctional Officer Delvillar informed me of the incident. I observed two inmates in A 1-244 in handcuffs with effects of OLEREORESIN CAPSIUM spray. I then instructed officer Gilmore to open cell door 244 with staff at door. I then instructed officer Villalobos to escort inmate Milazo with myself to A holding cell in A Facility Health Annex. I also instructed Officer Delvillar and Avalos to escort Inmate Gilbert to upper c section shower. Both inmates were decontaminated from the chemical Oleoresin Capsicum pepperspray with water and air. Both inmates were medically evaluated by ER Kuhnert RN and 7219 completed at this time it was noted both inmates had injuries.

*Gilbert Showered  
None on 7219 This  
Statement was false  
from Sgt Clark  
also stating milazo was  
o/c Decontaminated!  
7219 shows NO Decon*

☐ CHECK IF NARRATIVE IS CONTINUED ON PART C1

SIGNATURE OF REPORTING STAFF <i>N. Clark</i>	TITLE SERGEANT	BADGE # [REDACTED]	DATE 03/09/07
NAME AND TITLE OF REVIEWER (PRINT / SIGNATURE) <i>M. McVey Sergeant</i>	DATE RECEIVED 03/09/07	APPROVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		DATE 03/09/07	

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS AND REHABILITATION

**CRIME / INCIDENT REPORT****PART C- STAFF REPORT**

CDCR 837-C (Rev. 07/05)

PAGE 1 OF 1INCIDENT LOG NUMBER  
SVP-CEN-07-03-0155

NAME: LAST Delvillar		FIRST P		MI	DATE OF INCIDENT 03/09/07	TIME OF INCIDENT 0030
POST # 111150	POSITION A 1&2 Floor	YEARS OF SERVICE 4 YR. 4 MO.	DATE OF REPORT 03/09/07		LOCATION OF INCIDENT A1 244	
RDO's S/S	DUTY HOURS 2200/0600	DESCRIPTION OF CRIME / INCIDENT Mutual Combat W/Use of O.C			CCR SECTION / RULE 3005 (c)	<input type="checkbox"/> N/A

YOUR ROLE	WITNESSES (PREFACE S-STAFF, V-VISITOR, O-OTHER)	INMATES (PREFACE S-SUSPECT, V-VICTIM, W-WITNESS)	
<input checked="" type="checkbox"/> PRIMARY	A. Villalobos (s)	Gilbert E-50957 (s)	Milazo K-13061 (s)
<input type="checkbox"/> RESPONDER	D. Avalos (s)		
<input type="checkbox"/> WITNESS	N. Clark (s)		
<input type="checkbox"/> VICTIM	K. Gilmore (s)		
<input type="checkbox"/> CAMERA			

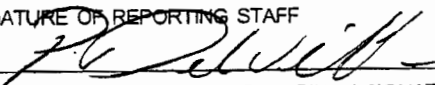

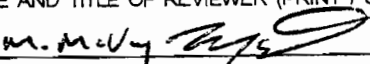
FORCE USED BY YOU	WEAPONS AND SHOTS FIRED BY YOU			CHEMICAL AGENTS USE BY YOU
<input type="checkbox"/> WEAPON <input type="checkbox"/> PHYSICAL <input checked="" type="checkbox"/> CHEMICAL <input type="checkbox"/> NONE	NO: <input type="checkbox"/> MINI-14 <input type="checkbox"/> 9 MM <input type="checkbox"/> 38 CAL <input type="checkbox"/> SHOTGUN <input checked="" type="checkbox"/> N/A	NO: <input type="checkbox"/> 37MM <input type="checkbox"/> 40 MM <input type="checkbox"/> L8 <input type="checkbox"/> 40 MULTI <input type="checkbox"/> HFWRS <input type="checkbox"/> BATON	TYPE: <input checked="" type="checkbox"/> OC <input type="checkbox"/> CN <input type="checkbox"/> CS <input type="checkbox"/> OTHER: <input type="checkbox"/> N/A	
FORCE OBSERVED BY YOU <input type="checkbox"/> WEAPON <input type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input checked="" type="checkbox"/> NONE				

EVIDENCE COLLECTED BY YOU	EVIDENCE DESCRIPTION	EVIDENCE DISPOSITION	BIO HAZARD	PPE
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
REPORTING STAFF INJURED	DESCRIPTION OF INJURY	LOCATION TREATED (HOSPITAL / CLINIC)	FLUID EXPOSURE	SCIF 3301 / 3067 COMPLETED
<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<input checked="" type="checkbox"/> N/A	<input checked="" type="checkbox"/> N/A	<input type="checkbox"/> BODILY <input type="checkbox"/> UNKNOWN <input type="checkbox"/> OTHER: <input checked="" type="checkbox"/> N/A	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

**NARRATIVE:**

On March 9, 2007 at approximately 0030 hours, while performing my duties as A 1&2 floor I heard yelling coming from the area of A1 244 occupied by Inmates Gilbert E50957 and Milazo K13061. As I approached cell 244 I could see both inmates standing in the middle of the cell striking each other in the upper torso and head area with closed fist. I immediately pressed my personal alarm and ordered both inmates to stop their actions, with negative results. Fearing they may inflict serious injury upon each other I administered O.C pepper spray from my state issued MK-9 into the cell striking both inmates in the upper torso, with negative results. Both inmates continued to strike each other, I continued to give both inmates verbal orders to stop their actions, with negative results. I again administered O.C pepper spray from my state issued MK-9 into the cell striking both inmates in the facial area with positive results. I placed both inmates in 'Hand Cuffs' Sergeant Clark arrived and instructed C/O Gilmore to open cell 244 and directed C/O Avalos and I to escort inmate Gilbert to C upper shower without further incident.

☐ CHECK IF NARRATIVE IS CONTINUED ON PART C1

SIGNATURE OF REPORTING STAFF 	TITLE C/O	BADGE # 	DATE 3-9-07
NAME AND TITLE OF REVIEWER (PRINT / SIGNATURE) 	DATE RECEIVED 3-9-2007	APPROVED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	CLARIFICATION NEEDED <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
		DATE 3-9-2007	

Distribution: Original: Incident Package Copy: Reporting Employee Copy: Reviewing Supervisor

State of California  
CDC FORM 695  
Screening For:  
CDC 602 Inmate/Parolee Appeals  
CDC 1824 Reasonable Modification or Accommodation Request

A-1-244L

RE: Screening at the SECOND Level

6-26-2007

REC'D SEP 18 2007

MILAZO, K13061  
A1 244

Log Number: SVSP-A-07-02352

(Note: Log numbers are not assigned to screen out appeals or informal level appeals)

The enclosed documents are being returned to you for the following reasons:

*You have failed to reasonably demonstrate that the issue you are appealing adversely affects your welfare, pursuant to CCR 3084.1(a).*

*The appellant is advised that the appeals process is not a rehearing of the disciplinary. The appeals process is a review to determine if all time constraints were met and if due process was maintained during the course of the disciplinary proceedings. The appellant has not presented any "new" evidence that was not available to him prior to his disciplinary hearing. A review of the RVR disposition shows that the appellant was afforded the opportunity to present an adequate defense and to call witnesses. The appellant made a brief statement on his behalf and waived the presence of any witnesses at his disciplinary hearing. The appellant has not provided any evidence or documentation to substantiate his claim that he was not involved in mutual combat. He was specifically identified by the RE as a participant in the mutual combat and if the appellant wanted to question the veracity of the RE report or any other staff report he should have called the RE and other staff as witnesses.*



NOTE: Failure to follow instruction(s) will be viewed as non-cooperation and your appeal will be automatically dismissed pursuant to CCR 3084.4(d). This screening decision may not be appealed. If you believe this screen out is in error, please return this form to the Appeals Coordinator with an explanation of why you believe it to be in error, and supporting documents. You have only 15 days to comply with the above directives.

PERMANENT APPEAL ATTACHMENT – DO NOT REMOVE

DELIVERED AUG 08 2007



STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT

CDC NUMBER K-13061	INMATE'S NAME MILAZO	RELEASE/BOARD DATE 01/18/2014	INST. SVSP	HOUSING NO. A1-244	LOG NO. S07-03-00
VIOLATED RULE NO(S). CCR §3005(c)		SPECIFIC ACTS MUTUAL COMBAT WITH USE OF O.C. PEPPER SPRAY	LOCATION A1-244	DATE 03/09/07	TIME 0030 Hrs.
CIRCUMSTANCES					

On March 9, 2007, at approximately 0030 hours, while performing my duties as 'A' 182 Floor Officer, I heard yelling coming from the area of A1-244 occupied by inmates GILBERT, #50957, and MILAZO, K-13061. As I approached cell 244, I could see both inmates standing in the middle of the cell striking each other in the upper torso and head area with closed fist. I immediately pressed my personal alarm and ordered both inmates to stop their actions, with negative results. Fearing they may inflict serious injury upon each other, I administered O.C. Pepper Spray from my state issued MK-9 into the cell striking both inmates in the upper torso, with negative results. Both inmates continued to strike each other, I continued to give both inmates verbal orders to stop their actions, with negative results. I again administered O.C. Pepper Spray from my state issued MK-9 into the cell, striking both inmates in the facial area with positive results. I placed both inmates in handcuffs. Sergeant Clark arrived and instructed C/O Gilmore to open cell 244 and directed C/O Avalos and I to escort Inmate GILBERT to 'C' upper shower without further incident.

Inmate MILAZO is not a participant in the Mental Health Services Delivery System.

REPORTING EMPLOYEE (Typed Name and Signature) P. Delvillar, Correctional Officer	DATE 3/9/07	ASSIGNMENT Fac. A 182 Floor	RDO'S S/S
REVIEWING SUPERVISOR'S SIGNATURE [Signature]	DATE 3/9/07	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION D 11-90	DATE 3/14/07	CLASSIFIED BY (Typed Name and Signature) [Signature]
HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC		DATE 3/14/07	

## COPIES GIVEN INMATE BEFORE HEARING

<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) [Signature]	DATE 3/14/07	TIME 2105	TITLE OF SUPPLEMENT
507-03-0011	BY: (STAFF'S SIGNATURE) [Signature]	DATE 3/14/07	TIME 2105	BY: (STAFF'S SIGNATURE) [Signature]
<input checked="" type="checkbox"/> INCIDENT REPORT LOG NUMBER: A-03-07-03-0155	BY: (STAFF'S SIGNATURE) [Signature]	DATE 3/14/07	TIME 2105	DATE [ ]

HEARING

REFERRED TO ☐ CLASSIFICATION ☐ BPT/NAEA

ACTION BY: (TYPED NAME)	SIGNATURE [Signature]	DATE	TIME
REVIEWED BY: (SIGNATURE) [Signature]	DATE	CHIEF DISCIPLINARY OFFICER'S SIGNATURE [Signature]	DATE
INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) [Signature]	DATE	TIME

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## RULES VIOLATION REPORT - PART C

PAGE 2 OF 2

CDC NUMBER K-13051	INMATE'S NAME MILAZO	LOG NUMBER S07-02-0011	INSTITUTION S.V.S.P.	TODAY'S DATE 02/02/07
<input type="checkbox"/> SUPPLEMENTAL	<input checked="" type="checkbox"/> CONTINUATION OF:	<input type="checkbox"/> 115 CIRCUMSTANCES	<input type="checkbox"/> HEARING	<input checked="" type="checkbox"/> IE REPORT
<input type="checkbox"/> OTHER				

**STAFF WITNESS' STATEMENT:** On 02/02/07, I interviewed Correctional Officer Villalobos and he made the following statement: "On that day I responded to an alarm in A1 cell 244. When I arrived Officer Delvillar had the foodport open and was giving a direct order to stop fighting. O.C. Pepper Spray was administered and both inmates complied. I then escorted one of the inmates to 'A' Health Annex."

**INVESTIGATIVE EMPLOYEE'S STATEMENT:** I went to A1 cell 244 to conduct an I.E. for Inmate Milazo and Inmate Gilbert, because both inmates requested an Investigative Employee. When I approached the cell door I saw both inmates sitting on the lower bunk. I spoke with Inmate Milazo first and he stated that they were just having an argument. However, he didn't state what they were arguing about. When a copy of the CDC-115 was issued to Inmate Milazo, he requested inmate witnesses, but during this interview Inmate Milazo did not want any witnesses and stated he was not guilty. I then spoke with Inmate Gilbert and he stated, "The same that he [Milazo] stated."

Reporting Employee requested at the hearing: No.

Investigative Employee requested at the hearing: No.

Staff / Inmate witnesses requested at the hearing: No.

Additional information in Confidential Reports: No.

C. Lewis, Correctional Officer

<input type="checkbox"/> COPY OF CDC 115-C GIVEN TO INMATE	SIGNATURE OF WRITER <i>[Signature]</i>	DATE SIGNED 2/2/07
	GIVEN BY: (Staff's Signature)	DATE SIGNED
		TIME SIGNED

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**SERIOUS RULES VIOLATION REPORT**

CDC NUMBER K-13061	INMATE'S NAME MILAZO	VIOLATED RULE NO(S) CCR §3005(c)	DATE 03/09/07	INSTITUTION SVSP	LOG NO. S07-03-0011
-----------------------	-------------------------	-------------------------------------	------------------	---------------------	------------------------

REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT ☐ YES ☒ NO**POSTPONEMENT OF DISCIPLINARY HEARING**

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION N/A	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE N/A	DATE

**STAFF ASSISTANT**

STAFF ASSISTANT <input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE N/A	DATE
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON <b>DOES NOT MEET CRITERIA PER CCR §3315(d)(2).</b>	

**INVESTIGATIVE EMPLOYEE**

INVESTIGATIVE EMPLOYEE <input checked="" type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE	INMATE'S SIGNATURE N/A	DATE
<input checked="" type="checkbox"/> ASSIGNED	DATE 03/20/07	NAME OF STAFF C. Reyes, Correctional Officer
<input type="checkbox"/> NOT ASSIGNED	REASON	

EVIDENCE / INFORMATION REQUESTED BY INMATE:

**WITNESSES**

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

<input type="checkbox"/> REPORTING EMPLOYEE	<input type="checkbox"/> STAFF ASSISTANT	<input type="checkbox"/> INVESTIGATIVE EMPLOYEE	<input type="checkbox"/> OTHER	<input type="checkbox"/> NONE
WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)				
1. FLORES K63887	GRANTED <input type="checkbox"/>	NOT GRANTED <input type="checkbox"/>	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	
6. MCCracken J21493	GRANTED <input type="checkbox"/>	NOT GRANTED <input type="checkbox"/>	GRANTED <input type="checkbox"/> NOT GRANTED <input type="checkbox"/>	

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

On 03/20/07, I was assigned as Investigative Employee for CDC-115 Log #S07-03-0011. I informed Inmate MILAZO of my assignment and that as Investigative Employee my duties were as a fact finder for the Senior Hearing Officer. Inmate MILAZO stated that he had no objection to my serving in this capacity.

**DEFENDANT'S STATEMENT:** On 03/20/07, I interviewed Inmate MILAZO and he made the following statement: "I am not guilty, we were not fighting, we were arguing."

**REPORTING EMPLOYEE'S STATEMENT:** On 03/21/07, I interviewed Correctional Officer Delvillar and he made the following statement: "I was doing a security check when I heard both inmates arguing. When I approached the cell I saw Inmate Gilbert lying on the top bunk. Inmate Milazo stated to me that they were not getting along. I started leaving when I heard them arguing again. When I approached the cell door front I saw both inmates standing in the middle of the cell and they started to fight. I gave them orders to stop fighting but they continued to fight. I opened the foodport and sprayed with O.C. Pepper Spray both inmates then complied with my orders."

(Continued On Part C)

C. Reyes, Correctional Officer

<input checked="" type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE) C. Reyes	INVESTIGATOR'S SIGNATURE C. Reyes	DATE 3/14/07
		TIME 2:05	DATE 3/14/07



## SERIOUS RULES VIOLATION REPORT

CDC NUMBER K-15061	INMATE'S NAME MILAZO	VIOLATED RULE NO(S). CCR 13005(c)	DATE 03/09/07	INSTITUTION SVSP	LOG NO. 507-03-0011
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REFERRAL FOR FELONY PROSECUTION IS LIKELY IN THIS INCIDENT ☐ YES ☒ NO

## POSTPONEMENT OF DISCIPLINARY HEARING

<input type="checkbox"/> I DO NOT REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
<input type="checkbox"/> I REQUEST my hearing be postponed pending outcome of referral for prosecution.	INMATE'S SIGNATURE N/A	DATE
DATE NOTICE OF OUTCOME RECEIVED	DISPOSITION N/A	
<input type="checkbox"/> I REVOKE my request for postponement.	INMATE'S SIGNATURE N/A	DATE

## STAFF ASSISTANT

STAFF ASSISTANT	INMATE'S SIGNATURE	DATE
<input type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE		
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input checked="" type="checkbox"/> NOT ASSIGNED	REASON DOES NOT MEET CRITERIA PER CCR 13315(d)(2).	

## INVESTIGATIVE EMPLOYEE

INVESTIGATIVE EMPLOYEE	INMATE'S SIGNATURE	DATE
<input checked="" type="checkbox"/> REQUESTED <input type="checkbox"/> WAIVED BY INMATE		
<input type="checkbox"/> ASSIGNED	DATE	NAME OF STAFF
<input type="checkbox"/> NOT ASSIGNED	REASON	

EVIDENCE / INFORMATION REQUESTED BY INMATE:

## WITNESSES

WITNESSES REQUESTED AT HEARING (IF NOT PRESENT, EXPLAIN IN FINDINGS)

<input type="checkbox"/> REPORTING EMPLOYEE	<input type="checkbox"/> STAFF ASSISTANT	<input type="checkbox"/> INVESTIGATIVE EMPLOYEE	<input type="checkbox"/> OTHER	<input type="checkbox"/> NONE
WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)				
	GRANTED	NOT GRANTED	WITNESSES (GIVE NAME AND TITLE OR CDC NUMBER)	
	<input type="checkbox"/>	<input type="checkbox"/>		GRANTED
	<input type="checkbox"/>	<input type="checkbox"/>		NOT GRANTED

INVESTIGATIVE REPORT: Investigative Employees must interview the inmate charged, the reporting employee, and any others who have significant information, documenting the testimony of each person interviewed. Review of files, procedures, and other documents may also be necessary.

<input checked="" type="checkbox"/> COPY OF CDC 115-A GIVEN INMATE	BY: (STAFF'S SIGNATURE)	TIME	DATE
		2:10	3/9/07